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HOUSE OF REPRESENTATIVES

of the

General Assembly

of the

Commonwealth of Kentucky

2002 Regular Session

Volume IV

Held in the State Capitol in the City of Frankfort,
at Frankfort, in the Year of Our Lord 2002,
and in the Two Hundred and Tenth
Year of the Commonwealth

Begun on Tuesday, the Eighth Day of January, 2002, and Adjourned
Sine Die on Monday, the Fifteenth Day of April, 2002

Paid for from state funds

FOREWORD

The Kentucky Constitution requires each chamber of the General Assembly to keep a journal as a public accounting of daily legislative activity. The journal is the official record of action.

The Kentucky Revised Statutes require the Legislative Research Commission to compile, edit, correct, and publish the journals of each chamber. This is the House Journal for the Regular Session of the 2002 General Assembly.

Texts of bills, joint resolutions, and concurrent resolutions appear in the journal on the day of their first reading. Texts of simple resolutions appear on the day of either their first reading or adoption. Texts of committee amendments appear when they are reported out of committee and floor amendments are inserted at the end of the day on which they were filed. The appendices include a table of actions on bills and resolutions, a list of elected representatives, roll call votes, and a sponsor and subject index.

JoAnn Paulin, Rhonda Carter, and Shelly Purvis prepared the *House Journal* for the 2002 Regular Session. The edited copy and appendices in this volume reflect the cooperative efforts of the LRC Staff.

Robert S. Sherman
Director

The Capitol
Frankfort, Kentucky
2003

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MONDAY, MARCH 11, 2002

FORTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Chester Badgett, Campbellsville Baptist Church, Campbellsville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Allen and Coleman.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Friday, March 8, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 123, SB 197, SB 231,** and **SB 241**.

Message received in regard to **HB 57**: The Senate has passed **HB 57** with the following Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 314**: The Senate has passed **HB 314** with the following Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. (Time: 4:15 p.m.)

Introduction of Bills and Resolutions

HCR 226, by Representatives Thomas and Richards: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study pond populations of catfish to develop more accurate methods of estimating the number and size of catfish in ponds, to study feeding sinking feed in conjunction with floating feed to give smaller catfish more access to feed, and to study the economic feasibility of raising Red Claw Crayfish for commercial production in Kentucky.

HR 227, by Representative Nunn: A RESOLUTION recognizing the month of April as Child Abuse Prevention Month.

HR 228, by Representatives Stein, Marzian, and Nunn: A RESOLUTION declaring the month of March to be Women's History Month, and adjourning the House of Representatives in honor of the women who have served and continue to serve the Commonwealth of Kentucky.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Appropriations and Revenue: **SB 239**

Banking and Insurance: **SB 38, 187**

Health and Welfare: **SB 203, 216**

Tourism Development and Energy: **SCR 92**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Judiciary: **HB 799**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 507,** with Committee Substitute attached thereto, **HB 657, HB 658, HJR 87, HJR 133,** and **HJR 134** with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee Substitute to **HB 507** is as follows:

HB 507, AN ACT relating to appropriations providing financing for the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state-supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, Road Fund, restricted funds accounts, or federal funds accounts for the fiscal year ending June 30, 2002, and for the fiscal year beginning July 1, 2002, and ending June 30, 2003, and for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following discrete sums, or so much thereof as may be necessary. Appropriated funds are included pursuant to KRS 48.700 and 48.710. Each appropriation is made by source of respective fund or funds accounts. Appropriations for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units of the state government, and any and all other activities of the government of the Commonwealth, are subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes and compliance with the conditions and procedures set forth in this Act.

Appropriations identified as General Fund (Tobacco) in Part I, Operating Budget, are representative of the amounts provided in Part XI, Phase I Tobacco Settlement, and are not to be appropriated in duplication.

A. GOVERNMENT OPERATIONS

Budget Units

1. EXECUTIVE OFFICE OF THE GOVERNOR

a. Office of the Governor

	2002-03	2003-04
General Fund	7,651,000	7,651,000
Restricted Funds	1,911,000	2,144,000
Federal Funds	71,000	71,000
Total	9,633,000	9,866,000

Included in the above General Fund appropriation in each year of the biennium is $18,000 for the Governor's expense allowance and $10,000 for the Lieutenant Governor's expense allowance to meet additional expenses associated with the position of Governor of Kentucky and the position of Lieutenant Governor as specified in KRS 64.710.

b. Office of State Budget Director

	2002-03	2003-04
General Fund	3,665,000	3,665,000
Restricted Funds	923,000	1,318,000
Total	4,588,000	4,983,000

c. State Planning Fund

	2002-03	2003-04
General Fund	490,000	490,000

The Governor is authorized to expend funds for the improvement and advancement of governmental purposes and activities. Included in the above General Fund appropriation is a grant of $25,000 in fiscal year 2002-2003 and $25,000 in fiscal year 2003-2004 to be awarded to the Bluegrass State Games to assist with planning and production of the games.

TOTAL - EXECUTIVE OFFICE OF THE GOVERNOR

	2002-03	2003-04
General Fund	11,806,000	11,806,000
Restricted Funds	2,834,000	3,462,000
Federal Funds	71,000	71,000
TOTAL	14,711,000	15,339,000

2. GOVERNOR'S OFFICE OF TECHNOLOGY

	2002-03	2003-04
General Fund	300,000	300,000
Restricted Funds	61,318,000	61,318,000
Road Funds	125,000	125,000
Total	61,743,000	61,743,000

Included in the above Restricted Funds appropriation is $536,000 in fiscal year 2002-2003 and $536,000 in fiscal year 2003-2004 to fund the operating costs of the Office for Geographic Information Systems. These receipts will be derived from any state agency or university that benefits from the implementation of the Geographic Information Systems basemap technology. The Office of Geographic Information Systems shall recommend, and the Chief Information Officer (CIO) shall approve, the cost allocation plan. Upon approval by the CIO, the agencies and universities shall pay their proportional share of the plan.

3. GOVERNOR'S OFFICE OF VETERANS' AFFAIRS

	2002-03	2003-04
General Fund	14,448,500	15,163,700
Restricted Funds	18,448,100	19,332,000
Total	32,896,600	34,495,700

4. GOVERNOR'S OFFICE OF EARLY CHILDHOOD DEVELOPMENT

	2002-03	2003-04
General Fund (Tobacco)	2,188,400	2,188,400
General Fund	213,500	213,500
Restricted Funds	50,000	0
Federal Funds	175,000	175,000
Total	2,626,900	2,576,900

5. KENTUCKY INFRASTRUCTURE AUTHORITY

	2002-03	2003-04
General Fund	-0-	1,111,000
Restricted Funds	2,579,000	2,568,000
Federal Funds	50,313,000	50,312,000
Total	52,892,000	53,991,000

Included in the above General Fund appropriation is $1,111,000 in fiscal year 2003-2004 for debt service.

6. GOVERNOR'S OFFICE OF AGRICULTURAL POLICY

	2002-03	2003-04
General Fund (Tobacco)	47,688,000	39,434,000
Restricted Funds	155,900	161,000
Total	47,843,900	39,595,000

7. KENTUCKY AGENCY FOR SUBSTANCE ABUSE POLICY

	2002-03	2003-04
General Fund (Tobacco)	2,574,800	2,236,600
Federal Funds	111,700	111,700
Total	2,686,500	2,348,300

8. SECRETARY OF STATE

	2002-03	2003-04
General Fund	2,360,100	2,360,100
Restricted Funds	878,500	1,006,600
Total	3,238,600	3,366,700

The above Restricted Funds appropriations shall be used for the continuation of current activities within the General Administration unit and for the operations and staff of the Uniform Commercial Code Branch notwithstanding the provisions of KRS 14.140.

9. BOARD OF ELECTIONS

	2002-03	2003-04
General Fund	4,739,700	4,832,500
Restricted Funds	108,600	116,900
Total	4,848,300	4,949,400

Included in the above General Fund appropriation is $3,335,300 in fiscal year 2003-2004 and $3,428,100 in fiscal year 2003-2004 to pay the state's share of county election expenses (KRS 117.345) and the state's share of voter registration expenses (KRS 116.145 and KRS 117.343). Notwithstanding KRS 117.345(2), the maximum state payment rate is increased from the current statutory level of $255 to $300 per precinct per election to each precinct using voting machines. Any amount that the state is required to pay in excess of the above amounts under the provisions of KRS 116.145, KRS 117.343, and KRS 117.345 shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

Special elections and additional precincts created by redistricting shall be deemed necessary governmental expenses and be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

10. TREASURY

	2002-03	2003-04
General Fund	2,275,900	2,275,900
Restricted Funds	815,700	834,500
Total	3,091,600	3,110,400

Included in the Restricted Funds appropriation above is a recurring transfer from the Unclaimed Property Fund. In each respective fiscal year of the 2002-2004 biennium, $807,900 and $834,500 is appropriated to provide funding for services performed by the Unclaimed Property Division of the Treasury Department.

11. ATTORNEY GENERAL

		2002-03	2003-04
General Fund	30,000	13,738,900	13,774,700
Restricted Funds		6,747,400	7,269,900
Federal Funds		2,351,400	2,351,400
Total	30,000	22,837,700	23,396,000

Included in the above General Fund appropriation is $30,000 in fiscal year 2001-2002, pursuant to KRS 48.005(5). The appropriation is for the purpose of notifying consumers, not otherwise notified by Ford Motor Company, of their eligibility for possible restitution as a result of the multi-state settlement agreement with Ford Motor Company. If the settlement award is deposited subsequent to fiscal year 2001-2002, the General Fund appropriation for the notification of consumers regarding the Ford Motor Company settlement, shall not lapse, notwithstanding KRS 45.229, and shall be carried forward into fiscal year 2002-2003 for the same purpose. If the settlement award is deposited subsequent to fiscal year 2002-2003, the General Fund appropriation for the notification of consumers regarding the Ford Motor Company settlement, shall not lapse, notwithstanding KRS 45.229, and shall be carried forward into fiscal year 2003-2004 for the same purpose.

12. UNIFIED PROSECUTORIAL SYSTEM

a. Commonwealth's Attorneys

	2002-03	2003-04
General Fund	25,108,000	26,745,300
Restricted Funds	843,300	200,000
Federal Funds	598,600	631,300
Total	26,549,900	27,576,600

Included in the above General Fund appropriation is $258,400 in fiscal year 2002-2003 and $259,400 in fiscal year 2003-2004 to support a Commonwealth's Attorney and staff to service the 57th Judicial Circuit as authorized by the 2001 General Assembly.

Notwithstanding the provisions of KRS 218A.435(12), second sentence, which reads, "The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient," funds are recommended for appropriation to support the operations of the Commonwealth's Attorneys.

Included in the above General Fund appropriation are funds to provide each full-time Commonwealth's Attorney the sum of $1,000 each month, which is declared to be the equivalent of the minimum sum that the Commonwealth's Attorney will expend each month in the performance of the official duties directed to be performed for the Commonwealth, notwithstanding KRS 15.755(6).

Included in the above General Fund appropriation is $116,200 in fiscal year 2002-2003 and $106,400 in fiscal year 2003-

2004 to provide funding for a full-time Commonwealth's Attorney office in the Fortieth Circuit.

Notwithstanding the provisions of KRS 15.247, KRS 15.705, and KRS 15.750 funds are authorized to support the operations of the Commonwealth's Attorneys.

b. County Attorneys

	2002-03	2003-04
General Fund	21,179,900	22,177,500
Restricted Funds	62,300	4,800
Federal Funds	414,700	434,800
TOTAL	21,656,900	22,617,100

Notwithstanding the provisions of KRS 218A.435(12), second sentence, which reads, "The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient," funds are recommended for appropriation to support the operations of the County Attorneys.

Included in the above General Fund appropriation are funds to provide each County Attorney the sum of $500 each month, which is declared to be the equivalent of the minimum sum that each County Attorney will expend each month in the performance of the official duties directed to be performed for the Commonwealth, notwithstanding KRS 15.765(2).

Notwithstanding the provisions of KRS 15.247 and KRS 15.705, funds are authorized to support the operations of the County Attorneys.

TOTAL - UNIFIED PROSECUTORIAL SYSTEM

	2002-03	2003-04
General Fund	46,287,900	48,922,800
Restricted Funds	905,600	204,800
Federal Funds	1,013,300	1,066,100
TOTAL	48,206,800	50,193,700

13. AUDITOR OF PUBLIC ACCOUNTS

	2002-03	2003-04
General Fund	5,400,400	5,375,400
Restricted Funds	3,940,500	4,377,100
TOTAL	9,340,900	9,752,500

Notwithstanding KRS 43.200, no funding is provided for Auditor's scholarships.

14. AGRICULTURE

	2002-03	2003-04
General Fund	20,762,400	21,042,400
Restricted Funds	3,154,800	3,573,800
Federal Funds	2,130,000	2,130,000
TOTAL	26,047,200	26,746,200

Included in the above General Fund appropriation is $478,500 in fiscal year 2002-2003 and $478,500 in fiscal year 2003-2004 for the Breathitt Veterinary Center and $370,000 in fiscal year 2002-2003 and $370,000 in fiscal year 2003-2004 for the University of Kentucky for the diagnostic laboratories.

Included in the above General Fund appropriation is $100,000 in each fiscal year for the Agriculture/Economic Development joint trade office in Mexico. Notwithstanding KRS 45.229, any unexpended General Fund for the Mexico Trade Office shall be continued into the succeeding fiscal year, and the Cabinet for Economic Development shall assist in seeking and obtaining matching funds for the joint office.

Included in the above General Fund appropriation is $250,000 in fiscal year 2002-2003 and $250,000 in fiscal year 2003-2004 to carry out the provisions of KRS 438.335.

15. MILITARY AFFAIRS

	2002-03	2003-04
General Fund	10,979,900	10,979,900
Restricted Funds	18,680,500	18,796,200
Federal Funds	19,107,500	18,187,800
Total	48,767,900	47,963,900

There is appropriated from the General Fund the necessary funds to be expended, subject to the conditions and procedures provided in this Act, which are required as a result of the Governor's call of the Kentucky National Guard to active duty when an emergency or exigent situation has been declared to exist by the Governor. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures in this Act, which are required to match federal aid to which the state would be eligible in the event of a presidentially-declared disaster or emergency. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

Included in the above General Fund appropriation is $420,000 in each fiscal year for the Youth Challenge Program.

16. PERSONNEL BOARD

	2002-03	2003-04
General Fund	578,500	578,500
Restricted Funds	1,700	1,700
Total	580,200	580,200

17. LOCAL GOVERNMENT

	2001-02	2002-03	2003-04
General Fund		11,508,100	11,772,000
Restricted Funds		785,800	652,400
Federal Funds	7,900,000	52,433,900	52,430,800
Total	7,900,000	64,727,800	64,855,200

18. SPECIAL FUNDS

a. Local Government Economic Assistance Fund

	2002-03	2003-04
General Fund	37,639,000	37,993,200

b. Local Government Economic Development Fund

	2002-03	2003-04
General Fund	46,118,300	47,499,200

The above appropriations from the General Fund are based on the official estimate presented by the Office of State Budget Director for severance tax collections during the biennium, distributed in accordance with KRS 42.450 to 42.495. Notwithstanding provisions set forth in KRS 42.4582, moneys transferred from the General Fund to the Local Government Economic Development Fund shall be calculated at the percentage of forty-six and one half percent (46.5%) effective July 1, 2002. Moneys transferred from the General Fund to the Local Government Economic Development Fund shall be calculated at fifty percent (50%) effective July 1, 2003. If actual severance tax receipts are different from the official estimate, the amount to be allotted to the Local Government Economic Assistance Fund shall be determined in accordance with KRS 42.450 to 42.495 and the amount to be allotted to the Local Government Economic Development Fund shall continue to be calculated at the percentages specified in this paragraph and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4585, the quarterly calculation and transfer of the funds pursuant to KRS 42.4585 shall be made only after each quarterly installment of the annual appropriation of $1,000,000 in fiscal year 2002-2003 and $1,000,000 in fiscal year 2003-2004 has been credited to the Trover Clinic Grant within the Department for Local Government.

Notwithstanding KRS 42.4582, the quarterly calculation and transfer of moneys from the General Fund to the Local Government Economic Development Fund pursuant to KRS 42.4582 shall be made only after each quarterly installment of the annual appropriation of $1,407,100 in fiscal year 2002-2003 and $1,480,200 in fiscal year 2003-2004 has been credited to the Osteopathic Scholarship program within the Kentucky Higher Education Assistance Authority.

Notwithstanding KRS 42.4585, the amount transferred annually from the Local Government Economic Development Fund into the Local Government Economic Assistance Fund under the provisions of KRS 42.4585 shall not be less than an amount equal to fourteen percent (14%) in fiscal year 2002-2003 and fifteen percent (15%) in fiscal year 2003-2004 of the severance and processing taxes on coal collected annually and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $472,000 in fiscal year 2002-2003 and $472,000 in fiscal year 2003-2004 has been transferred as Restricted Funds to the East Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $467,000 in fiscal year 2002-2003 and $467,000 in fiscal year 2003-2004 has been transferred as

Restricted Funds to the West Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $770,500 in fiscal year 2002-2003 and $783,600 in fiscal year 2003-2004, has been transferred as Restricted Funds to the Department for Coal County Development within the Cabinet for Economic Development.

Notwithstanding KRS 42.4592, the quarterly calculation for the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $550,000 in fiscal year 2002-2003 and $550,000 in fiscal year 2003-2004 has been credited to the Kentucky Appalachian Commission and Appalachian Regional Commission related expenditures.

Notwithstanding KRS 42.4586, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $960,800 in fiscal year 2002-2003 and $960,800 in fiscal year 2003-2004 has been credited to the Secondary Wood Products Development Fund. The Kentucky Wood Products Competitive Corporation shall emphasize job creation in the Eastern and Western Kentucky Coal Regions.

Notwithstanding KRS 342.122(1)(c), $19,000,000 from the General Fund shall not be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission in fiscal year 2002-2003 and fiscal year 2003-2004.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $100,000 in fiscal year 2002-2003 and $100,000 in fiscal year 2003-2004 has been credited to the Kentucky Coal Coalition from funds available to the Department for Local Government.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of money to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $5,000,000 in each year of the biennium that shall be reserved for the high-tech construction/investment pools created under KRS 154.12-278. Notwithstanding KRS 42.4588(4) and KRS 42.4588(5), these funds will be used for projects and programs recommended by the Office of the Commissioner for the New Economy in the Cabinet for Economic Development and approved by the Commissioner of the Department for Coal County Development in the Cabinet for Economic Development. The projects identified are limited to research and development, commercialization or work-related initiatives consistent with the character of the high-tech construction and high-tech investment pools administered by the Office for the New Economy. Investment and construction pool projects must be targeted solely to Kentucky's Local Government Economic Development Fund eligible counties.

Notwithstanding KRS 42.4588, the Commissioner of the Department for Coal County Development, in consultation with affected counties, shall be authorized to approve Local Government Economic Development Fund grants for job training and telecommunications infrastructure projects. The Commissioner is further authorized to prioritize funding of projects in the following order: industrial development projects, job training projects, and any other eligible projects or projects funded out of the Local Government Economic Development Fund.

Notwithstanding KRS 42.4588, the Cabinet for Economic Development is authorized to provide $1,000,000 for the East Kentucky Development Alliance to support a revolving loan fund and $2,000,000 for the Appalachia Bus program from the Local Government Economic Development Fund Multi-County Fund, effective fiscal year 2002-2003.

Pursuant to the authority given in KRS 42.485, the continuing appropriation amount from fiscal year 2001-2002 to fiscal year 2002-2003 and from fiscal year 2002-2003 to fiscal year 2003-2004 shall equal the dollar amount that the Local Government Economic Development and Local Government Economic Assistance Funds have the statutory authority to expend.

c. Area Development Fund

	2002-03	2003-04
General Fund	1,357,700	1,206,200

Notwithstanding KRS 48.185, funds appropriated from the General Fund for the Area Development Fund shall be limited to these amounts.

TOTAL - SPECIAL FUNDS

	2002-03	2003-04
General Fund	85,115,000	86,698,600

19. COMMISSION ON HUMAN RIGHTS

	2002-03	2003-04
General Fund	1,978,200	2,078,000
Restricted Funds	24,000	24,000
Federal Funds	170,800	170,800
Total	2,173,000	2,272,800

20. COMMISSION ON WOMEN

	2002-03	2003-04
General Fund	269,900	269,900
Restricted Funds		4,600
Federal Funds		200
Total	269,900	274,700

21. COMMISSION ON SMALL BUSINESS ADVOCACY

	2002-03	2003-04
General Fund	75,000	75,000
Restricted Funds	45,000	45,000
Total	120,000	120,000

22. KENTUCKY RETIREMENT SYSTEMS

	2002-03	2003-04
Restricted Funds	14,980,500	15,847,500

23. REGISTRY OF ELECTION FINANCE

	2002-03	2003-04
General Fund	8,475,200	3,475,200
Restricted Funds	202,800	203,200
Total	8,678,000	3,678,400

Included in the above General Fund appropriation is $7,000,000 in fiscal year 2002-2003 and $2,000,000 in fiscal year 2003-2004 to support the state share of Gubernatorial campaign financing required for payment under the provisions of KRS 121A.030 and KRS 121A.080. Any amount in excess of the appropriated amounts needed to support the state share of Gubernatorial Campaign Financing shall be deemed Necessary Government Expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund (KRS 48.705).

24. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

a. Board of Accountancy

	2002-03	2003-04
Restricted Funds	752,700	782,100

b. Alcohol and Drug Counselors

	2002-03	2003-04
Restricted Funds	62,000	65,000

c. Board of Architects

	2002-03	2003-04
Restricted Funds	272,000	258,300

d. Board of Art Therapists

	2002-03	2003-04
Restricted Funds	11,300	11,400

e. Kentucky Athletic Commission

	2002-03	2003-04
Restricted Funds	158,500	167,300

f. Board of Auctioneers

	2002-03	2003-04
Restricted Funds	360,200	370,500

g. Board of Barbering

	2002-03	2003-04
Restricted Funds	225,600	231,500

h. Board of Chiropractic Examiners

	2002-03	2003-04
Restricted Funds	182,800	191,400

i. Board of Dentistry

	2002-03	2003-04
Restricted Funds	474,400	504,400

j. Board of Dietitians and Nutritionists

	2002-03	2003-04
Restricted Funds	67,900	71,500

k. Board of Embalmers and Funeral Directors

	2002-03	2003-04
Restricted Funds	240,400	249,100

l. Board of Engineers and Land Surveyors

	2002-03	2003-04
Restricted Funds	1,291,800	1,354,100

m. Board of Fee-Based Pastoral Counselors

	2002-03	2003-04
Restricted Funds	6,000	6,000

n. Board of Geologists

	2002-03	2003-04
Restricted Funds	133,000	135,000

o. Board of Hairdressers and Cosmetologists

	2002-03	2003-04
Restricted Funds	998,900	1,105,000

Notwithstanding KRS 317A.050, The Board of Hairdressers and Cosmetologists is permitted to increase the licensing and renewal fees necessary to provide for the enacted budget expenditure level.

p. Board of Hearing Instrument Specialists

	2002-03	2003-04
Restricted Funds	50,700	52,700

q. Board of Interpreters for Deaf and Hard of Hearing

	2002-03	2003-04
Restricted Funds	25,000	25,000

r. Board of Landscape Architects

	2002-03	2003-04
Restricted Funds	55,300	57,800

s. Board of Marriage and Family

	2002-03	2003-04
Restricted Funds	79,200	83,200

t. Board of Medical Licensure

	2002-03	2003-04
Restricted Funds	1,992,500	2,099,900

u. Board of Nursing

	2002-03	2003-04
Restricted Funds	4,230,500	4,268,900

Included in the above Restricted Funds appropriation is $175,000 in each fiscal year for the Nursing Incentive Scholarship Program.

v. Nursing Home Administrators Licensure Board

	2002-03	2003-04
Restricted Funds	69,000	76,200

w. Board of Occupational Therapy

	2002-03	2003-04
Restricted Funds	76,600	86,000

x. Board of Ophthalmic Dispensers

	2002-03	2003-04
Restricted Funds	57,600	62,900

y. Board of Optometric Examiners

	2002-03	2003-04
Restricted Funds	152,400	157,000

z. Board of Pharmacy

	2002-03	2003-04
Restricted Funds	835,000	876,000

aa. Board of Physical Therapy

	2002-03	2003-04
Restricted Funds	263,400	280,000

ab. Board of Podiatry

	2002-03	2003-04
Restricted Funds	14,500	15,500

ac. Board of Professional Counselors

	2002-03	2003-04
Restricted Funds	49,700	51,700

ad. Board of Proprietary Education

	2002-03	2003-04
Restricted Funds	123,000	134,300

ae. Board of Psychology

	2002-03	2003-04
Restricted Funds	169,600	176,100

af. Real Estate Appraisers Board

	2002-03	2003-04
Restricted Funds	614,900	631,900

ag. Real Estate Commission

	2002-03	2003-04
Restricted Funds	2,003,100	2,302,900

Included in the above Restricted Funds appropriation is $966,700 in fiscal year 2002-2003 and $1,224,000 in fiscal year 2003-2004 for Real Estate Education and Recovery.

ah. Board of Respiratory Care

	2002-03	2003-04
Restricted Funds	182,700	188,600

ai. Board of Social Workers

	2002-03	2003-04
Restricted Funds	141,300	145,300

aj. Board of Speech Pathologists and Audiologists

	2002-03	2003-04
Restricted Funds	83,000	86,000

ak. Board of Veterinary Examiners

	2002-03	2003-04
Restricted Funds	228,300	237,800

TOTAL - OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

	2002-03	2003-04

Restricted Funds	16,734,800	17,598,300

25. EDUCATION PROFESSIONAL STANDARDS BOARD

	2002-03	2003-04
General Fund	12,433,800	11,097,000
Restricted Funds	1,378,500	829,600
Federal Funds	122,200	122,200
Total	13,934,500	12,048,800

Notwithstanding KRS 161.134, $800,000 in fiscal year 2002-2003 and $800,000 in fiscal year 2003-2004 is provided for National Board of Teaching Standards Certification from the General Fund.

Notwithstanding KRS 161.028(1)(o) and (q), the above Restricted Funds appropriation may be used for the operations of the Board.

Included in the above General Fund appropriation is $2,000,000 in fiscal year 2002-2003 for the establishment of the Teacher Education Model Program.

Notwithstanding KRS 45.229, the above General Fund support appropriated for the Teacher Education Model Program shall not lapse in fiscal year 2002-2003, but be carried forward to fiscal year 2003-2004 for the purposes of providing program services in fiscal year 2003-2004.

26. BOARD OF EMERGENCY MEDICAL SERVICES

	2002-03	2003-04
General Fund	2,571,200	2,571,200
Restricted Funds	168,300	171,700
Federal Fund	296,800	100,000
Total	3,036,300	2,842,900

27. GOVERNMENTAL SERVICES CENTER

	2002-03	2003-04
Restricted Funds	1,462,000	1,516,000

28. EXECUTIVE BRANCH ETHICS COMMISSION

	2002-03	2003-04
General Fund	335,900	340,500
Restricted Funds	300	2,400
Total	336,200	342,900

29. MISCELLANEOUS APPROPRIATIONS

a. Judgments

	2002-03	2003-04
General Fund	-0-	-0-

The above appropriation is for the payment of judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board and where applicable, shall be subject to the provisions of KRS Chapter 45, and for the payment of medical malpractice judgments against the University of Kentucky and the University of Louisville in accordance with KRS 164.941 and 164.892. Notwithstanding KRS 45.229, any remaining appropriation in the Judgments account at the end of fiscal year 2001-2002 or fiscal year 2002-2003 shall not lapse but shall be carried forward into fiscal years 2002-2003 and 2003-2004, respectively.

b. Attorney General Expense

	2002-03	2003-04
General Fund	225,000	225,000

c. Board of Claims Awards

	2002-03	2003-04
General Fund	600,000	600,000

Funds are appropriated from the General Fund for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund. However, awards under $2,000, in cases where the operating agency admits negligence, shall be paid from funds available for the operations of the agency.

d. Guardian Ad Litem

	2002-03	2003-04
General Fund	3,200,000	3,400,000

Included in the above appropriation is funding for fees to be paid to the guardian ad litem appointed by the court pursuant to KRS 311.732. The fee shall be fixed by the court and shall not exceed $500.

e. Prior Year Claims

	2002-03	2003-04
General Fund	400,000	400,000

f. Unredeemed Checks Refunded

	2002-03	2003-04
General Fund	1,000,000	1,000,000

Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with KRS 41.370.

g. Involuntary Commitments ICF/MR

	2002-03	2003-04
General Fund	60,000	60,000

h. Frankfort in Lieu of Taxes

	2002-03	2003-04
General Fund	195,000	195,000

i. Frankfort Cemetery

	2002-03	2003-04
General Fund	2,500	2,500

j. Police Officers and Firefighters--Life Insurance

	2002-03	2003-04
General Fund	250,000	250,000

Funds are appropriated for payment of benefits for state and local police officers and firefighters in accordance with KRS 61.315.

k. Master Commissioners--Employers Retirement

	2002-03	2003-04
General Fund	200,000	200,000

l. Master Commissioner--Social Security

	2002-03	2003-04
General Fund	313,000	343,000

m. Workers' Compensation

	2002-03	2003-04
General Fund	502,000	532,000

Funds are appropriated for workers' compensation premiums for fee officers in counties over 70,000 in population.

n. Medical Malpractice Liability Insurance Reimbursements

	2002-03	2003-04
General Fund	60,000	60,000

o. Blanket Employee Bonds

	2002-03	2003-04
General Fund	100,000	100,000

TOTAL - MISCELLANEOUS APPROPRIATIONS

	2002-03	2003-04
General Fund	7,107,500	7,367,500

Included in the above appropriations is $0 in fiscal year 2002-2003 and $0 in fiscal year 2003-2004 for refunding money paid into the State Treasury, which may later be determined not to be a lawful collection by the state. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and with the approval of the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

Funds required to pay the costs of items included within the Miscellaneous Appropriations category are appropriated, and any required expenditure over the above amounts is to be paid first from the General Fund Surplus Account (KRS 48.700) if available or from any available balance in either the Judgments budget unit appropriation or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

30. KENTUCKY RIVER AUTHORITY

Budget Units

	2002-03	2003-04
General Fund	379,000	379,000
Restricted Funds	3,266,000	3,698,000
Total	3,645,000	4,077,000

TOTAL - GOVERNMENT OPERATIONS

	2001-02	2002-03	2003-04
General Fund (Tobacco)		52,451,200	43,859,000
General Fund	30,000	264,140,500	264,860,300
Restricted Funds		159,666,300	163,615,200
Federal Funds	7,900,000	128,296,600	127,229,000
Road Funds		125,000	125,000
TOTAL	7,930,000	604,679,600	599,688,500

B. CABINET FOR ECONOMIC DEVELOPMENT

31. CABINET FOR ECONOMIC DEVELOPMENT

Budget Units

a. Office of the Secretary

	2002-03	2003-04
General Fund (Tobacco)	200,000	200,000
General Fund	1,392,700	1,417,100
Restricted Funds	4,575,200	4,612,800
Total	6,167,900	6,229,900

Included in the above General Fund (Tobacco) appropriation is $200,000 in fiscal year 2002-2003 and $200,000 in fiscal year 2003-2004 for the West Kentucky Jobs Creation Corporation.

Included in the above Restricted Funds appropriations is $472,000 in fiscal year 2002-2003 and $472,000 in fiscal year 2003-2004 for the East Kentucky Jobs Creation Corporation and $467,000 in fiscal year 2002-2003 and $467,000 in fiscal year 2003-2004 for the West Kentucky Jobs Creation Corporation. Also included in the above Restricted Funds appropriations is $770,500 in fiscal year 2002-2003 and $783,600 in fiscal year 2003-2004 for the Coal County Development Office. Notwithstanding KRS 42.4592, the Restricted Funds appropriations for the East Kentucky Corporation, the West Kentucky Corporation, and the Coal County Development Office shall be funded from the Local Government Economic Development Fund prior to any other statutory distribution from the Local Government Economic Development Fund.

Included in the above Restricted Funds appropriation is $300,000 in fiscal year 2002-2003 and $300,000 in fiscal year 2003-2004 for the Kentucky Technology Service Grant administered by the Kentucky Manufacturing Assistance Center.

Included in the above Restricted Funds appropriation is $420,800 in fiscal year 2002-2003 and $420,800 in fiscal year 2003-2004 for the Louisville Waterfront Development Corporation.

Included in the above appropriation are Restricted Funds in the amount of $2,144,900 in fiscal year 2002-2003 and $2,169,400 in fiscal year 2003-2004 for the Office of the Commissioner for the New Economy, including up to $1,300,000 in each year for Innovation and Commercialization Centers. Notwithstanding KRS 164.6019, 164.6021, 164.6027, 164.6029, 164.6035, 164.6037, and 164.6043, the unobligated balance of fiscal year 2001-2002 appropriations from the Council on Postsecondary Education, Science and Technology Trust Fund shall be transferred to the Office of the Commissioner for the New Economy to provide Restricted Funds appropriation for fiscal year 2002-2003 totaling $1,969,400 and totaling $1,000,000 in fiscal year 2003-2004.

b. Administration and Program Support

	2002-03	2003-04
General Fund	2,179,900	2,167,500
Restricted Funds	29,800	45,900

Total	2,209,700	2,213,400

c. Business Development

	2002-03	2003-04
General Fund	2,517,900	2,541,600
Restricted Funds	248,800	290,600
Total	2,766,700	2,832,200

d. Financial Incentives

	2001-02	2002-03	2003-04
General Fund		3,343,800	3,371,900
Restricted Funds	351,500	2,182,700	2,227,300
Total	351,500	5,526,500	5,599,200

The General Fund appropriation for fiscal year 2001-2002 and for fiscal year 2002-2003 for the Bluegrass State Skills Corporation shall be continued and not lapse to the General Fund Surplus Account, notwithstanding KRS 45.229.

Notwithstanding KRS 154.12-207, the Secretary is directed to take such action as may be necessary to execute contractual agreements for designated skills training and education projects for which funds have been specifically appropriated.

No commitment for employee training shall be made beyond the ability of the Cabinet to fund the project within the appropriation for the current biennium.

Balances remaining in the Special Revenue Fund accounts after all appropriations authorized in this bill are funded shall lapse to the Deferred Maintenance Account at the end of each fiscal year.

The Bluegrass State Skills Corporation shall submit a quarterly financial report to the Governor's Office for Policy and Management, the Legislative Research Commission, and the Interim Joint Committee on Appropriations and Revenue.

Notwithstanding KRS 154.12-278 by which the Kentucky Economic Development Finance Authority (KEDFA) authorized a grant of up to $1,300,000 in fiscal year 2001-2002 to the Kentucky Science and Technology Corporation, a maximum of $900,000 of the authorized amount shall be conveyed for expenditure. The remaining funding shall be retained and shall be appropriated to the Office of the Commissioner for the New Economy to be used to fund Innovation and Commercialization grants.

e. Community Development

	2002-03	2003-04
General Fund	2,655,900	2,756,000
Restricted Funds	440,100	454,000
Federal Funds	157,100	155,400
Total	3,253,100	3,365,400

Included in the above General Fund appropriation is $918,600 in fiscal year 2002-2003 and $961,700 in fiscal year 2003-2004 for the Regional Offices.

TOTAL - CABINET FOR ECONOMIC DEVELOPMENT

	2001-02	2002-03	2003-04
General Fund (Tobacco)		200,000	200,000
General Fund		12,090,200	12,254,100
Restricted Funds	351,500	7,476,600	7,630,600
Federal Funds		157,100	155,400
TOTAL	351,500	19,923,900	20,240,100

C. EDUCATION

32. EDUCATION

Budget Units

a. Support Education Excellence in Kentucky (SEEK) Program

	2002-03	2003-04
General Fund	2,255,641,000	2,298,647,700

Accumulated earnings for the Common School Fund shall be transferred in each fiscal year to the Support Education Excellence in Kentucky program.

The above appropriations include $1,594,373,800 in fiscal year 2002-2003 and $1,628,402,900 in fiscal year 2003-2004 for the base SEEK program as defined by KRS 157.360. Funds appropriated to the Support Education Excellence in Kentucky program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. Included in the appropriation for base SEEK is $186,083,500 in fiscal year 2002-2003 and $191,222,300 in fiscal year 2003-2004 for pupil transportation, notwithstanding KRS 157.360(2)(c).

Included in the above appropriation is $134,092,900 in fiscal year 2002-2003 and $130,529,500 in fiscal year 2003-2004 for the Tier I component as established by KRS 157.440.

Included in the above appropriation is $2,416,900 in fiscal year 2002-2003 and $2,416,900 in fiscal year 2003-2004 for vocational transportation.

Included in the above appropriation is $21,452,600 in fiscal year 2002-2003 and $21,452,600 in fiscal year 2003-2004 to provide secondary vocational education in state-operated vocational schools.

Included in the above appropriation is $57,258,000 in fiscal year 2002-2003 and $53,833,700 in fiscal year 2003-2004 to provide facilities equalization funding pursuant to the provisions of KRS 157.620 and KRS 157.440.

Included in the above appropriation is $259,363,900 in fiscal year 2002-2003 and $270,190,000 in fiscal year 2003-2004 to enable local school districts to provide the employer match for qualified employees as provided for by KRS 161.550.

Included in the above appropriation is $600,000 in each fiscal year to assist local school districts in providing salary supplements for teachers attaining certification by the National Board of Professional Teaching Standards, notwithstanding the provisions of KRS 157.395.

b. Executive Policy and Management

	2002-03	2003-04
General Fund	715,400	735,100

c. Operations and Support Services

	2002-03	2003-04
General Fund	11,542,700	11,823,500
Restricted Funds	2,187,900	2,264,400
Federal Funds	562,500	573,800
Total	14,293,100	14,661,700

Included in the above General Fund appropriation is $2,503,800 in fiscal year 2002-2003 and $2,553,900 in fiscal year 2003-2004 to enable the Department of Education to provide the employer match for the teacher retirement contribution for qualified employees as provided by KRS 161.550.

d. Learning and Results Services

	2002-03	2003-04
General Fund	569,531,000	612,139,200
Restricted Funds	5,850,700	5,851,200
Federal Funds	491,060,800	497,995,000
Total	1,066,442,500	1,115,985,400

Included in the above General Fund appropriation is $15,000,000 in fiscal year 2002-2003 and $20,000,000 in fiscal year 2003-2004 for the education technology escrow account.

Included in the above General Fund appropriation is $10,800,000 in fiscal year 2002-2003 and $10,800,000 in fiscal year 2003-2004 for reimbursement to local school districts for the education of state agency children as defined by KRS 158.135.

Included in the above General Fund appropriation is $277,397,000 in fiscal year 2002-2003 and $309,119,400 in fiscal year 2003-2004 to provide health insurance and life insurance coverage for employees of local school districts.

Included in the above General Fund appropriation is $4,060,000 in fiscal year 2002-2003 and $10,049,500 in fiscal year 2003-2004 for the school rewards escrow account.

Included in the above General Fund appropriation is $5,421,100 in fiscal year 2002-2003 and $5,659,500 in fiscal year 2003-2004 for the Kentucky School for the Blind, and $9,139,800 in fiscal year 2002-2003 and $9,559,300 in fiscal year 2003-2004 for the Kentucky School for the Deaf.

TOTAL - EDUCATION

	2002-03	2003-04
General Fund	2,837,430,100	2,923,345,500
Restricted Funds	8,038,600	8,115,600
Federal Funds	491,623,300	498,568,800
TOTAL	3,337,092,000	3,430,029,900

D. EDUCATION, ARTS AND HUMANITIES CABINET

Budget Units

33. OFFICE OF THE SECRETARY

	2002-03	2003-04
General Fund	3,240,800	3,270,800
Restricted Funds	36,400	36,700
TOTAL	3,277,200	3,307,500

Included in the above General Fund appropriation is $1,470,900 in each fiscal year for the Governor's Scholars Program.

Included in the above General Fund appropriation is $405,000 in fiscal year 2002-2003 and $405,000 in fiscal year 2003-2004 for the Governor's School for the Arts.

Up to $30,000 in General Fund support each year is available to be transferred to the Environmental Education Council for additional support.

34. KENTUCKY ARTS COUNCIL

	2002-03	2003-04
General Fund	4,644,600	4,693,700
Restricted Funds	713,800	612,500
Federal Funds	624,800	621,100
TOTAL	5,983,200	5,927,300

35. TEACHERS' RETIREMENT SYSTEM

	2002-03	2003-04
General Fund	90,113,200	97,489,000
Restricted Funds	7,330,100	7,571,900
TOTAL	97,443,300	105,060,900

General Fund moneys are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 to 161.716.

The above General Fund appropriation, in conjunction with those included elsewhere within this Act for the Teachers' Retirement System, is based upon estimated funds needed to meet the requirements of KRS 161.220 to 161.716. If these combined General Fund appropriations are in excess of these requirements, the excess funds shall lapse to the credit of the General Fund.

In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent (4%) of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund moneys are provided in fiscal year 2002-2003 or fiscal year 2003-2004 for the cost of administration.

Included in the above General Fund appropriation is $3,668,400 in fiscal year 2002-2003 and $7,636,700 in fiscal year 2003-2004 to provide the cost of amortizing the requirements of KRS 161.155 (sick leave) for members retiring during the 2002-2004 biennium.

Included in above General Fund appropriation is $694,800 in fiscal year 2002-2003 and $1,451,800 in fiscal year 2003-2004 to increase minimum value payments for members qualifying under provisions of KRS 161.620(3).

Included in the above General Fund appropriation is $1,179,900 in fiscal year 2003-2004 to make up for an underappropriation during fiscal year 2000-2001 under the provisions of KRS 161.550.

Included in the above General Fund appropriation is $4,406,000 in fiscal year 2002-03 and $9,213,400 in fiscal year 2003-04 to provide, when combined with the annual one and one-half percent (1.5%) retirement allowance increase as provided for under KRS 161.620, a total increase in retirement allowances of eligible system members and beneficiaries of two and nine-tenths percent (2.9%) in fiscal year 2002-2003 and an additional three percent (3.0%) in fiscal year 2003-2004.

Notwithstanding the provisions of KRS 45.229, General Fund support totaling $1,652,000 shall not be expended in FY 2002-03 but shall be carried forward to FY 2003-04 to support the cost of providing a cost of living adjustments to eligible members in FY 2003-04.

36. SCHOOL FACILITIES CONSTRUCTION COMMISSION

	2002-03	2003-04
General Fund	77,121,400	86,226,800

Included in the above General Fund appropriation is $76,853,100 in fiscal year 2002-2003 and $77,476,500 in fiscal year 2003-2004 for debt service for bonds previously issued.

Included in the above General Fund appropriation is $8,500,000 in fiscal year 2003-2004 for debt service for previously authorized bonds.

Notwithstanding any provisions of KRS 157.611 to 157.665, the School Facilities Construction Commission is authorized to make an additional $100,000,000 in offers of assistance during the 2002-2004 biennium in anticipation of debt service availability during the 2004-2006 biennium. No bonded indebtedness based on the above amount is to be incurred during the 2002-2004 biennium.

37. DEAF AND HARD OF HEARING

	2002-03	2003-04
General Fund	909,100	881,100
Restricted Funds	200,000	200,000
Total	1,109,100	1,081,100

38. KENTUCKY HERITAGE COUNCIL

	2002-03	2003-04
General Fund	945,700	945,700
Restricted Funds	234,600	227,500
Federal Funds	766,100	766,100
Total	1,946,400	1,939,300

39. KENTUCKY EDUCATIONAL TELEVISION

	2002-03	2003-04
General Fund	14,936,400	15,389,300
Restricted Funds	1,106,400	1,075,700
Federal Funds	700,000	700,000
Total	16,742,800	17,165,000

40. KENTUCKY HISTORICAL SOCIETY

	2002-03	2003-04
General Fund	6,145,000	6,377,500
Restricted Funds	572,200	571,400
Federal Funds	95,900	42,500
Total	6,813,100	6,991,400

In addition to the above Restricted Funds, the Kentucky Historical Society may expend any funds collected by the Kentucky Revenue Cabinet from the Income Tax Check-off program pursuant to 2002 RS House Bill 572 for the Kentucky Historical Cemetery Preservation Program. These administrative support appropriations shall be in addition to any other funds appropriated for this purpose, subject to application to and approval from the State Budget Director, and reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.630.

41. LIBRARIES AND ARCHIVES

a. General Operations

	2002-03	2003-04
General Fund	7,451,100	7,462,600
Restricted Funds	1,667,200	1,830,800
Federal Funds	1,807,600	1,836,800
Total	10,925,900	11,130,200

b. Direct Local Aid

	2002-03	2003-04
General Fund	5,966,700	5,980,200
Restricted Funds	9,000	9,000
Federal Funds	424,000	424,000
Total	6,399,700	6,413,200

Included in the above General Fund appropriation is $3,669,500 in each fiscal year to award per capita grants at the rate of seventy-three cents ($.73), notwithstanding KRS 171.201.

TOTAL - LIBRARIES AND ARCHIVES

	2002-03	2003-04
General Fund	13,417,800	13,442,800

Restricted Funds	1,676,200	1,839,800
Federal Funds	2,231,600	2,260,800
Total	17,325,600	17,543,400

42. KENTUCKY CENTER FOR THE ARTS

	2002-03	2003-04
General Fund	619,800	619,800

43. ENVIRONMENTAL EDUCATION COUNCIL

	2002-03	2003-04
Restricted Funds	150,000	150,000

TOTAL - EDUCATION, ARTS, AND HUMANITIES CABINET

	2002-03	2003-04
General Fund	212,093,800	229,336,500
Restricted Funds	12,019,700	12,285,500
Federal Funds	4,418,400	4,390,500
TOTAL	228,531,900	246,012,500

E. CABINET FOR FAMILIES AND CHILDREN

Budget Units

44. COMMUNITY BASED SERVICES

	2002-03	2003-04
General Fund (Tobacco)	7,262,800	3,581,300
General Fund	280,666,700	279,264,400
Restricted Funds	101,883,400	123,639,600
Federal Funds	468,549,000	476,832,800
Total	858,361,900	883,318,100

The Department for Community Based Services shall reimburse citizen members of the Public Assistance Appeals Board an amount not to exceed $75 per day plus travel expenses.

45. ADMINISTRATION SERVICES

	2002-03	2003-04
General Fund	27,660,400	29,162,700
Restricted Funds	4,390,100	4,501,800
Federal Funds	37,077,300	38,458,800
Total	69,127,800	72,123,300

46. DISABILITY DETERMINATIONS

	2002-03	2003-04
Restricted Funds	62,700	65,800
Federal Funds	40,129,800	42,376,900
Total	40,192,500	42,442,700

TOTAL - CABINET FOR FAMILIES AND CHILDREN

	2002-03	2003-04
General Fund (Tobacco)	7,262,800	3,581,300
General Fund	308,327,100	308,427,100
Restricted Funds	106,336,200	128,207,200
Federal Funds	545,756,100	557,668,500
TOTAL	967,682,200	997,884,100

F. FINANCE AND ADMINISTRATION CABINET

47. FINANCE AND ADMINISTRATION CABINET

Budget Units

a. General Administration

	2002-03	2003-04

General Fund	5,988,000	6,258,000
Restricted Funds	2,737,000	2,870,000
Total	8,725,000	9,128,000

Included in the above General Fund appropriation is $200,000 in fiscal year 2002-2003 and $200,000 in fiscal year 2003-2004 for the Affordable Housing Trust Fund which shall be matched equally from the Kentucky Housing Corporation Housing Assistance Fund.

b. Office of the Controller

	2002-03	2003-04
General Fund	6,098,000	6,193,000
Restricted Funds	396,000	414,000
Federal Funds	4,000,000	4,000,000
Total	10,494,000	10,607,000

c. Debt Service

	2002-03	2003-04
General Fund (Tobacco)	6,112,000	6,116,000
General Fund	249,038,000	247,772,000
Road Fund	3,668,000	3,664,000
Total	258,818,000	257,552,000

d. Administration

	2002-03	2003-04
General Fund	3,637,000	3,513,000
Restricted Funds	9,081,000	9,567,000
Road Fund	283,000	283,000
Total	13,001,000	13,363,000

e. Facilities Management

	2002-03	2003-04
General Fund	8,086,000	8,064,000
Restricted Funds	25,116,000	25,821,000
Total	33,202,000	33,885,000

f. County Costs

	2002-03	2003-04
General Fund	23,078,000	24,078,000
Restricted Funds	1,425,000	1,425,000
Total	24,503,000	25,503,000

Included in the above General Fund appropriation is $5,431,000 in fiscal year 2002-2003 and $5,431,000 in fiscal year 2003-2004 for base court revenue. Funds required to pay county costs other than base court revenue funded by the General Fund are appropriated and additional funds may be allotted from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) by the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

g. County Fees

	2002-03	2003-04
Restricted Funds	77,645,600	80,760,800

TOTAL - FINANCE AND ADMINISTRATION CABINET

	2002-03	2003-04
General Fund (Tobacco)	6,112,000	6,116,000
General Fund	295,925,000	295,878,000
Restricted Funds	116,400,600	120,857,800
Federal Funds	4,000,000	4,000,000
Road Fund	3,951,000	3,947,000
TOTAL	426,388,600	430,798,800

G. CABINET FOR HEALTH SERVICES

Budget Units

48. MEDICAID SERVICES

a. Administration

	2002-03	2003-04
General Fund	17,848,000	18,028,200
Restricted Funds	20,624,400	20,606,800
Federal Funds	44,009,800	44,542,700
Total	82,482,200	83,177,700

If any portion of the General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, the amount may be used for Medicaid Benefits, in accordance with statutes governing the functions and activities of the Department for Medicaid Services. In no instance shall these excess funds be used without prior written approval of the State Budget Director to:

(1) Establish a new program;
(2) Expand the services of an existing program; or
(3) Increase rates or payment levels in an existing program.

Any transfer authorized under this section shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director.

b. Benefits

	2002-03	2003-04
General Fund	752,373,700	757,093,500
Restricted Funds	200,011,300	188,448,600
Federal Funds	2,245,464,700	2,228,574,600
Total	3,197,849,700	3,174,116,700

These funds are to be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Medicaid Services.

Included in the above appropriation is $1,200,000 in General Fund support and $4,800,000 Federal Funds in each fiscal year to support the Breast and Cervical Cancer Treatment Program.

Any General Fund appropriation unexpended in fiscal years 2001-2002 and 2002-2003 shall not lapse, but shall be carried forward into the next fiscal year, notwithstanding KRS 45.229.

49. PUBLIC HEALTH

	2002-03	2003-04
General Fund (Tobacco)	21,738,800	20,882,800
General Fund	56,201,300	56,601,300
Restricted Funds	65,849,000	65,914,100
Federal Funds	127,620,500	127,620,500
Total	271,409,600	271,018,700

Included in the above appropriation is $50,000 in General Fund support in each fiscal year to support hospital-based hospice services in Louisville, Kentucky.

Notwithstanding any other statutory provisions to the contrary, the Secretary shall promulgate such administrative regulations as may be required to prescribe such user fees as are necessary to support the Restricted Funds appropriations above.

50. MENTAL HEALTH/MENTAL RETARDATION

	2002-03	2003-04
General Fund (Tobacco)	1,000,000	1,000,000
General Fund	168,255,000	171,611,900
Restricted Funds	190,690,900	206,415,200
Federal Funds	41,295,100	41,355,900
Total	401,241,000	420,383,000

51. CHILDREN WITH SPECIAL HEALTH CARE NEEDS

	2002-03	2003-04
General Fund (Tobacco)	1,600,000	1,600,000
General Fund	16,709,500	16,709,500
Restricted Funds	22,089,000	23,262,900
Federal Funds	10,053,700	9,822,800
Total	50,452,200	51,395,200

52. CERTIFICATE OF NEED

	2002-03	2003-04
General Fund	131,500	134,100
Restricted Funds	234,200	251,100
Total	365,700	385,200

The Secretary shall be authorized to promulgate such administrative regulations as may be required to prescribe user fee amounts which are reflected in the Restricted Funds appropriations above.

53. AGING SERVICES

	2002-03	2003-04
General Fund	26,421,800	26,821,800
Restricted Funds	760,400	761,600
Federal Funds	18,885,300	18,885,300
Total	46,067,500	46,468,700

54. ADMINISTRATIVE SUPPORT

	2002-03	2003-04
General Fund	9,358,000	9,355,400
Restricted Funds	8,154,000	8,806,700
Federal Funds	12,729,200	13,254,500
Total	30,241,200	31,416,600

Notwithstanding any other statutory provisions to the contrary, the Secretary shall promulgate such administrative regulations as may be required to prescribe such user fees as are necessary to support the Restricted Funds appropriations above.

TOTAL - CABINET FOR HEALTH SERVICES

	2002-03	2003-04
General Fund (Tobacco)	24,338,800	23,482,800
General Fund	1,047,298,800	1,056,355,700
Restricted Funds	508,413,200	514,467,000
Federal Funds	2,500,058,300	2,484,056,300
TOTAL	4,080,109,100	4,078,361,300

H. JUSTICE CABINET

55. JUSTICE OPERATIONS

Budget Units

a. Justice Administration

	2002-03	2003-04
General Fund	8,156,000	8,301,000
Restricted Funds	1,908,100	2,164,200
Federal Funds	13,433,500	13,384,700
Total	23,497,600	23,849,900

Included in the above General Fund appropriation is $1,425,000 in fiscal year 2002-2003 and $1,425,000 in fiscal year 2003-2004 to provide free civil legal services for indigents.

Included in the above General Fund appropriation is $1,096,700 in fiscal year 2002-2003 and $1,152,200 in fiscal year 2003-2004 for the operation of the State Parole Board.

Included in the above General Fund appropriation is $70,000 in fiscal year 2002-2003 and $70,000 in fiscal year 2003-2004 for a grant to continue the Urban League of Lexington-Fayette County Construction Training Program.

Included within the above Restricted Funds appropriation is $375,600 in fiscal year 2002-2003 and $363,700 in fiscal year 2003-2004 to support the Criminal Justice Council. Notwithstanding the provisions of KRS 15.440, KRS 15.460, and KRS 15.470, these Restricted Funds shall come from the Kentucky Law Enforcement Foundation Program Fund (KLEFPF).

b. State Police

	2001-02	2002-03	2003-04
General Fund		85,372,100	88,184,700
Restricted Funds	5,554,200	7,720,800	7,671,200
Road Fund		30,000,000	30,000,000
Federal Funds		9,772,600	10,261,300
Total	5,554,200	132,865,500	136,117,200

There is appropriated from the General Fund to the Department of State Police, subject to the conditions and procedures provided in this Act, funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty when an emergency situation has been declared to exist by the Governor. Funding is authorized to be provided from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

c. Criminal Justice Training

	2001-02	2002-03	2003-04
Restricted Funds	1,600,000	39,077,100	37,941,400
Federal Funds		2,700,000	2,700,000
Total	1,600,000	41,777,100	40,641,400

Included in the above appropriation is $22,167,300 in fiscal year 2002-2003 and $22,915,000 in fiscal year 2003-2004 for training incentive payments in accordance with KRS 15.430 and KRS 15.440.

Notwithstanding KRS 15.460(1), included in the above Restricted Funds appropriation is $3,100 in fiscal year 2002-2003 and $3,100 in fiscal year 2003-2004 for training incentive payments for each participant.

Included in the above total Restricted Funds appropriation for Criminal Justice Training is $1,800,000 in fiscal year 2001-2002 to be transferred to the Law Enforcement Basic Training Complex Capital Construction project.

d. Juvenile Justice

	2002-03	2003-04
General Fund	83,385,100	85,885,100
Restricted Funds	14,115,000	15,791,600
Federal Funds	17,300,000	17,250,000
Total	114,800,100	118,926,700

Effective July 1, 2003, the per diem rate for eligible juveniles held in approved locally operated facilities shall increase to $94.

Included in the above General Fund appropriation is $300,000 in fiscal year 2002-2003 and $300,000 in fiscal year 2003-2004 for the operation of the Gateway Juvenile Diversion Center.

Included in the above General Fund appropriation is $300,000 in fiscal year 2002-2003 and $300,000 in fiscal year 2003-2004 for the operation of the Mary Kendall Homes.

TOTAL - JUSTICE OPERATIONS

	2001-02	2002-03	2003-04
General Fund		176,913,200	182,370,800
Restricted Funds	7,154,200	62,821,000	63,568,400
Road Fund		30,000,000	30,000,000
Federal Funds		43,206,100	43,596,000
TOTAL	7,154,200	312,940,300	319,535,200

56. CORRECTIONS

Budget Units

a. Corrections Management

	2002-03	2003-04
General Fund	15,172,900	15,773,800
Restricted Funds	15,849,700	15,633,900
Federal Funds	799,400	800,000

Total	31,822,000	32,207,700

b. Community Services and Local Facilities

	2002-03	2003-04
General Fund	65,969,000	79,075,000
Restricted Funds	15,623,400	629,900
Total	81,592,400	79,704,900

Notwithstanding the provisions of KRS 441.605 to KRS 441.695 for fiscal year 2002-2003, funds in the amount of $15,000,000 shall be expended from the Kentucky Local Correctional Facilities Construction Authority for local correctional facility and operational support consistent with contractual covenants in accordance with bond indentures of the Authority.

In accordance with KRS 196.076(1) to (8), funding is provided for the probation and parole salary improvement program.

c. Adult Correctional Institutions

	2002-03	2003-04
General Fund	188,590,800	201,583,900
Restricted Funds	6,526,100	6,588,500
Federal Funds	215,200	215,200
Total	195,332,100	208,387,600

d. Local Jail Support

	2002-03	2003-04
General Fund	15,276,100	15,276,100

Included in the General Fund appropriation is $931,100 in fiscal year 2002-2003 and $931,100 in fiscal year 2003-2004 for medical care contracts to be distributed, upon approval of the Department of Corrections, to counties by the formula codified in KRS 441.206; $400,000 in fiscal year 2002-2003 and $400,000 in fiscal year 2003-2004 is provided, on a partial reimbursement basis, for medical claims in excess of the statutory threshold pursuant to KRS 441.045. The funding support for medical contracts and catastrophic medical expenses for indigents shall be maintained in discrete accounts. Any medical claim which exceeds the statutory threshold may be reimbursed for that amount in excess of the statutory threshold. In no event shall this apply to expenses of an elective, as opposed to emergency, basis, and expenses shall be paid according to the Kentucky Medical Assistance Schedule.

TOTAL - CORRECTIONS

	2002-03	2003-04
General Fund	285,008,800	311,708,800
Restricted Funds	37,999,200	22,852,300
Federal Funds	1,014,600	1,015,200
TOTAL	324,022,600	335,576,300

TOTAL - JUSTICE CABINET

	2001-02	2002-03	2003-04
General Fund		461,922,000	494,079,600
Restricted Funds	7,154,200	100,820,200	86,420,700
Federal Funds		44,220,700	44,611,200
Road Fund		30,000,000	30,000,000
TOTAL	7,154,200	636,962,900	655,111,500

I. LABOR

LABOR CABINET

57. Budget Units

a. General Administration and Support

	2002-03	2003-04
General Fund	414,900	432,700
Restricted Funds	5,652,600	5,897,300
Total	6,067,500	6,330,000

b. Workplace Standards

	2002-03	2003-04

General Fund	2,085,400	2,067,600
Restricted Funds	117,965,500	116,361,000
Federal Funds	3,280,500	3,280,500
Total	123,331,400	121,709,100

c. Workers' Claims

	2002-03	2003-04
Restricted Funds	16,397,700	17,093,300

d. Kentucky Occupational Safety and Health Review Commission

	2002-03	2003-04
Restricted Funds	476,800	479,300

TOTAL - LABOR CABINET

	2002-03	2003-04
General Fund	2,500,300	2,500,300
Restricted Funds	140,492,600	139,830,900
Federal Funds	3,280,500	3,280,500
TOTAL	146,273,400	145,611,700

Budget Unit

58. KENTUCKY WORKERS' COMPENSATION FUNDING COMMISSION

	2002-03	2003-04
Restricted Funds	145,502,000	145,089,000

Notwithstanding the provisions of KRS 342.122, the Kentucky Workers' Compensation Funding Commission is authorized to finance a portion of the Mines and Minerals budget through Special Fund assessments. Funds in the amount of $850,000 in fiscal year 2002-2003 and $850,000 in fiscal year 2003-2004 shall be transferred to the Department of Mines and Minerals.

Notwithstanding the provisions of KRS 342.122(1)(c), no General Fund appropriation is provided to the Workers' Compensation Funding Commission in fiscal year 2002-2003 and fiscal year 2003-2004.

Notwithstanding the provisions of KRS 342.122(1)(b), the workers' compensation assessment rate shall remain at eleven and one-half percent (11-1/2%) for the biennium.

TOTAL - LABOR

	2002-03	2003-04
General Fund	2,500,300	2,500,300
Restricted Funds	285,994,600	284,919,900
Federal Funds	3,280,500	3,280,500
TOTAL	291,775,400	290,700,700

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

59. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Budget Units

a. General Administration and Support

	2002-03	2003-04
General Fund	9,698,100	10,316,000
Restricted Funds	331,900	277,300
Federal Funds	1,585,200	1,596,300
Total	11,615,200	12,189,600

b. Environmental Protection

	2002-03	2003-04
General Fund	23,497,000	24,301,900
Restricted Funds	20,042,300	23,059,700
Federal Funds	19,357,000	19,661,900
Total	62,896,300	67,023,500

Notwithstanding KRS 224.43-320, no funds are provided in the above appropriations for the assignment of full-time inspectors to each municipal solid waste landfill operating in the Commonwealth.

c. Natural Resources

	2002-03	2003-04
General Fund (Tobacco)	8,800,000	8,800,000
General Fund	13,275,600	14,203,800
Restricted Funds	3,398,100	3,809,900
Federal Funds	5,397,700	4,914,700
Total	30,871,400	31,728,400

Not less than $240,000 of the General Fund appropriation for each fiscal year shall be set aside for emergency forest fire suppression. There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures provided in this Act, which are required as a result of emergency fire suppression activities in excess of the $240,000 amount. Fire suppression costs in excess of $240,000 annually shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

d. Surface Mining Reclamation and Enforcement

	2002-03	2003-04
General Fund	10,319,700	10,680,700
Restricted Funds	6,157,800	6,484,100
Federal Funds	17,243,300	17,390,000
Total	33,720,800	34,554,800

Included in the General Fund appropriation is $675,000 in each fiscal year for the return of permit and acreage fees under KRS 350.139; any required expenditure for this purpose in excess of this amount in either fiscal year is appropriated to the department.

e. Abandoned Mine Land Reclamation Projects

	2002-03	2003-04
Federal Funds	22,000,000	22,000,000

The above appropriations represent estimates of the funds to be received and expended for this program. If additional funds become available, the funds are appropriated subject to the conditions and procedures provided in this Act.

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

	2002-03	2003-04
General Fund (Tobacco)	8,800,000	8,800,000
General Fund	56,790,400	59,502,400
Restricted Funds	29,930,100	33,631,000
Federal Funds	65,583,200	65,562,900
TOTAL	161,103,700	167,496,300

60. ENVIRONMENTAL QUALITY COMMISSION

	2002-03	2003-04
General Fund	260,500	276,300
Restricted Funds	2,000	
Total	262,500	276,300

61. KENTUCKY NATURE PRESERVES COMMISSION

	2002-03	2003-04
General Fund	980,900	1,053,100
Restricted Funds	314,700	298,700
Federal Funds	25,000	25,000
Total	1,320,600	1,376,800

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

	2002-03	2003-04
General Fund (Tobacco)	8,800,000	8,800,000
General Fund	58,031,800	60,831,800

Restricted Funds	30,246,800	33,929,700
Federal Funds	65,608,200	65,587,900
TOTAL	162,686,800	169,149,400

K. PERSONNEL CABINET

62. PERSONNEL CABINET

Budget Units

a. General Operations

	2002-03	2003-04
General Fund	3,345,100	3,345,100
Restricted Funds	13,222,000	14,223,200
Total	16,567,100	17,568,300

Notwithstanding KRS 18A.015(2), (3), and (4), the Personnel Cabinet shall collect $5.00 per month per employee eligible for health insurance coverage in the state group for those agencies utilizing the state payroll system and $4.00 per employee eligible for health insurance coverage in the state group utilizing their own payroll system from all employers of state employees defined in KRS 18A.225(1)(b) for duly authorized use by the Personnel Cabinet in administering its statutory and administrative responsibilities, including but not limited to administration of the Commonwealth's health insurance program. Members of the state group utilizing the state payroll system will pay $5.00 per month beginning January 1, 2002.

b. Public Employees Deferred Compensation Authority

	2002-03	2003-04
Restricted Funds	5,183,300	5,622,100

c. Workers' Compensation Benefits and Reserve

	2002-03	2003-04
Restricted Funds	17,269,200	18,138,200

The above appropriations represent estimates of the funds necessary to operate this program. If additional funds are required to adequately maintain this program, the necessary Restricted Funds are appropriated, subject to the conditions and procedures provided in this Act.

TOTAL - PERSONNEL CABINET

	2002-03	2003-04
General Fund	3,345,100	3,345,100
Restricted Funds	35,674,500	37,983,500
TOTAL	39,019,600	41,328,600

L. POSTSECONDARY EDUCATION

Budget Units

63. COUNCIL ON POSTSECONDARY EDUCATION

	2002-03	2003-04
General Fund (Tobacco)	6,280,000	5,455,000
General Fund	101,354,300	137,665,800
Restricted Funds	7,451,300	4,707,700
Federal Funds	3,161,200	3,161,200
Total	118,246,800	150,989,700

Included in the above General Fund appropriation is $82,270,900 in fiscal year 2002-2003 and $114,545,700 in fiscal year 2003-2004 for the Strategic Investment and Incentive Funding Program. The following trust funds and funding programs make up the Strategic Investment and Incentive Funding Program for fiscal year 2002-2003 and for fiscal year 2003-2004. Included in the above General Fund appropriation is $11,230,000 in fiscal year 2003-2004 for the Research Challenge Trust Fund. Included in the above General Fund appropriation is $2,246,000 in fiscal year 2003-2004 for the Regional University Excellence Trust Fund. Included in the above General Fund appropriation is $1,300,000 in fiscal year 2002-2003 and $1,300,000 in fiscal year 2003-2004 for the Technology Initiative Trust Fund. Included in the above General Fund appropriation is $62,431,300 in fiscal year 2002-2003 and $79,230,100 in fiscal year 2003-2004 for the Student Financial Aid and Advancement Trust Fund. Included in the above Restricted Funds appropriation is $750,000 in fiscal year 2002-2003 for the Student Financial Aid and Advancement Trust Fund. Included in the above General Fund appropriation is $11,768,000 in fiscal year 2002-2003 and $11,768,000 in fiscal year 2003-2004 for the Adult Education and Literacy Funding Program. Included in the above General Fund appropriation is $6,771,600 in fiscal year 2002-2003 and $8,771,600 in fiscal year 2003-2004 for the Science and Technology Funding Program. Included in the above Restricted Funds appropriation is $4,000,000 in fiscal year 2002-2003 and $2,000,000 in fiscal year 2003-2004 for the

Science and Technology Funding Program.

Included in the above General Fund appropriation for the Research Challenge Trust Fund is $11,230,000 in fiscal year 2003-2004 for debt service to support the Research Challenge Trust Fund-Endowment Match capital project appropriation authorized in Part II.

Included in the above General Fund appropriation for the Regional University Excellence Trust Fund is $2,246,000 in fiscal year 2003-2004 for debt service to support the Regional University Excellence Trust Fund-Endowment Match capital project appropriation authorized in Part II.

Notwithstanding the provisions of KRS 45.229, the General Fund appropriations in fiscal year 2002-2003 to the Adult Education and Literacy Funding Program shall not lapse.

Notwithstanding the provisions of KRS 45.229, the General Fund appropriations in fiscal year 2002-2003 to the Science and Technology Funding Program shall not lapse.

64. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

	2002-03	2003-04
General Fund (Tobacco)	750,000	750,000
General Fund	45,860,000	66,828,300
Restricted Funds	83,302,500	97,352,600
Federal Funds	817,800	890,000
Total	130,730,300	165,820,900

Included in the above General Fund appropriation is $28,885,800 for the College Access Program in fiscal year 2002-2003 and $42,504,400 in fiscal year 2003-2004 notwithstanding the provisions of KRS 154A.130(4). General Fund appropriations for the College Access Program in the amount of $5,477,800 shall continue from fiscal year 2001-2002 into fiscal year 2002-2003 notwithstanding the provisions of KRS 45.229.

Included in the above General Fund appropriation is $12,288,400 for the Kentucky Tuition Grant Program in fiscal year 2002-2003 and $18,216,200 in fiscal year 2003-2004 notwithstanding the provisions of KRS 154A.130(4). General Fund appropriations for the Kentucky Tuition Grant Program in the amount of $2,438,900 shall continue from fiscal year 2001-2002 into fiscal year 2002-2003 notwithstanding the provisions of KRS 45.229.

Included in the above General Fund for Teacher Scholarship Program is $976,600 in fiscal year 2002-2003 and $2,279,400 in fiscal year 2003-2004 notwithstanding the provisions of KRS 154A.130(4).

Included in the above Restricted Funds is $742,800 in fiscal year 2002-2003 and $765,100 in fiscal year 2003-2004 for the administration of the Kentucky Educational Excellence Scholarship Program.

Any General Fund appropriation to the Kentucky Higher Education Assistance Authority that is unexpended in fiscal years 2001-2002 or 2002-2003 shall not lapse, and shall be continued into the next fiscal year notwithstanding the provisions of KRS 45.229. The expenditure of continuing General Fund appropriation in excess of the amounts specified above shall be subject to the review and approval of the State Budget Director.

65. EASTERN KENTUCKY UNIVERSITY

	2002-03	2003-04
General Fund	73,451,800	76,115,100
Restricted Funds	83,158,600	87,603,100
Federal Funds	44,454,400	46,665,700
Total	201,064,800	210,383,900

Included in the above General Fund appropriation is $3,700,400 in fiscal year 2002-2003 and $3,712,100 in fiscal year 2003-2004 for debt service for previously issued bonds.

66. KENTUCKY STATE UNIVERSITY

	2002-03	2003-04
General Fund	23,162,700	23,481,500
Restricted Funds	16,446,900	17,699,000
Federal Funds	11,500,400	11,730,400
Total	51,110,000	52,910,900

Included in the above General Fund appropriation is $2,247,600 in fiscal year 2002-2003 and $2,252,000 in fiscal year 2003-2004 for debt service for previously issued bonds.

67. MOREHEAD STATE UNIVERSITY

	2002-03	2003-04
General Fund	42,747,400	44,103,500

Restricted Funds	46,293,500	47,104,600
Federal Funds	46,570,500	51,207,100
Total	135,611,400	142,415,200

Included in the above General Fund appropriation is $1,543,700 in fiscal year 2002-2003 and $1,452,600 in fiscal year 2003-2004 for debt service for previously issued bonds.

68. MURRAY STATE UNIVERSITY

	2002-03	2003-04
General Fund	51,669,400	53,230,000
Restricted Funds	68,752,700	72,256,200
Federal Funds	10,646,700	10,906,800
Total	131,068,800	136,393,000

Included in the above General Fund appropriation is $1,880,700 in fiscal year 2002-2003 and $1,884,500 in fiscal year 2003-2004 for debt service for previously issued bonds.

69. NORTHERN KENTUCKY UNIVERSITY

	2002-03	2003-04
General Fund	45,989,000	48,636,400
Restricted Funds	66,180,400	69,535,800
Federal Funds	7,422,000	7,669,100
Total	119,591,400	125,841,300

Included in the above General Fund appropriation is $5,019,600 in fiscal year 2002-2003 and $5,033,300 in fiscal year 2003-2004 for debt service for previously issued bonds.

70. UNIVERSITY OF KENTUCKY

	2002-03	2003-04
General Fund	313,131,100	317,503,800
Restricted Funds	858,999,900	873,254,500
Federal Funds	126,193,600	128,053,100
Total	1,298,324,600	1,318,811,400

Included in the above General Fund appropriation is $6,461,300 in fiscal year 2002-2003 and $5,848,900 in fiscal year 2003-2004 for debt service for previously issued bonds.

Included in the above General Fund appropriation is $9,250,700 in fiscal year 2002-2003 and $9,516,500 in fiscal year 2003-2004 to support the operations of the Lexington Community College, of which $988,100 in fiscal year 2002-2003 and $732,700 in fiscal year 2003-2004 is for debt service for previously issued bonds.

Included in the above Restricted Funds appropriation is $14,424,900 in fiscal year 2002-2003 and $15,388,100 in fiscal year 2003-2004 to support the operations of the Lexington Community College.

Included in the above Federal Funds appropriation is $5,923,500 in fiscal year 2002-2003 and $5,923,500 in fiscal year 2003-2004 to support the operations of the Lexington Community College. Included in the above General Fund appropriation is $103,000 in fiscal year 2002-2003 and $103,000 in fiscal year 2003-2004 for the Ovarian Cancer Screening Program. Also, notwithstanding KRS 164.7911 through 164.7927, General Fund (Tobacco) dollars in the amount of $700,000 each fiscal year shall be transferred from the Research Challenge Trust Fund's Lung Cancer Research Program and allotted to the Ovarian Cancer Screening Out Reach Program at the University of Kentucky as specified in Part IX, Special Provisions, of this Act.

71. UNIVERSITY OF LOUISVILLE

	2002-03	2003-04
General Fund	176,745,200	179,095,300
Restricted Funds	293,702,300	302,317,400
Federal Funds	49,334,100	50,789,900
Total	519,781,600	532,202,600

Included in the above General Fund appropriation is $11,330,000 in fiscal year 2002-2003 and $9,504,900 in fiscal year 2003-2004 for debt service for previously issued bonds. Also included in the above General Fund appropriation is $17,052,900 in fiscal year 2002-2003 and $17,500,300 in fiscal year 2003-2004 to fulfill the Commonwealth's contractual obligation relating to indigent care furnished via the Quality and Charity Care Trust Agreement. Included in the above Restricted Funds appropriation is $50,000 in fiscal year 2002-2003 for the Quality and Charity Trust Agreement.

The General Fund appropriation related to the Quality and Charity Trust Agreement in fiscal year 2001-2002 shall not lapse, notwithstanding KRS 45.229. The General Fund appropriation related to the Quality and Charity Care Trust Agreement in the first year of the biennium shall continue into the second year for this purpose, notwithstanding KRS 45.229. Any unused portion of the General Fund appropriation relating to the Quality and Charity Care Trust Agreement shall lapse to the credit of the General Fund at the end of fiscal year 2003-2004.

72. WESTERN KENTUCKY UNIVERSITY

	2002-03	2003-04
General Fund	70,427,000	74,572,800
Restricted Funds	81,837,400	85,598,400
Federal Funds	30,444,000	32,444,000
Total	182,708,500	192,615,200

Included in the above General Fund appropriation is $3,295,900 in fiscal year 2002-2003 and $3,114,500 in fiscal year 2003-2004 for debt service for previously issued bonds.

73. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

	2002-03	2003-04
General Fund	189,722,700	195,194,000
Restricted Funds	177,568,900	185,450,000
Federal Funds	68,053,500	71,735,500
Total	435,345,100	452,379,500

Included in the above General Fund appropriation is $10,726,000 in fiscal year 2002-2003 and $10,765,800 in fiscal year 2003-2004 for debt service for previously issued bonds.

Notwithstanding KRS 95A.250(1), or the provisions of any other law, supplemental payments for each qualified professional firefighter under the Firefighters Foundation Fund shall be $3,100 in fiscal year 2002-2003 and $3,100 in fiscal year 2003-2004.

TOTAL - POSTSECONDARY EDUCATION

	2002-03	2003-04
General Fund (Tobacco)	7,030,000	6,205,000
General Fund	1,134,260,700	1,216,517,600
Restricted Funds	1,783,694,400	1,842,879,300
Federal Funds	398,598,200	415,252,800
TOTAL	3,323,583,300	3,480,854,700

M. PUBLIC PROTECTION AND REGULATION CABINET

Budget Units

74. BOARD OF CLAIMS/CRIME VICTIMS' COMPENSATION

	2002-03	2003-04
General Fund	635,000	657,300
Restricted Funds	2,539,000	2,936,900
Federal Funds	546,900	557,800
Total	3,720,900	4,152,000

75. ALCOHOLIC BEVERAGE CONTROL

	2002-03	2003-04
General Fund	250,000	1,663,000
Restricted Funds	5,787,600	4,545,200
Total	6,037,600	6,208,200

Included in the above General Fund appropriation is $250,000 in fiscal year 2002-2003 and $250,000 in fiscal year 2003-2004 to carry out the provisions of KRS 438.337.

76. FINANCIAL INSTITUTIONS

	2002-03	2003-04
Restricted Funds	8,993,100	9,329,700

77. KENTUCKY RACING COMMISSION

	2002-03	2003-04

General Fund	522,800	522,800
Restricted Funds	13,702,600	13,664,500
Total	14,225,400	14,187,300

78. HOUSING, BUILDINGS AND CONSTRUCTION

	2002-03	2003-04
General Fund	1,764,100	2,726,600
Restricted Funds	12,826,500	12,287,600
Total	14,590,600	15,014,200

79. INSURANCE

General Operations

	2002-03	2003-04
General Fund (Tobacco)	19,405,200	16,855,900
Restricted Funds	22,851,900	24,162,100
Total	42,257,100	41,018,000

80. MINES AND MINERALS

	2002-03	2003-04
General Fund	9,614,900	9,714,900
Restricted Funds	1,961,100	2,043,200
Federal Funds	598,500	598,500
Total	12,174,500	12,356,600

Notwithstanding KRS 342.122, the Kentucky Workers' Compensation Funding Commission will finance a portion of the Mines and Minerals budget through Special Fund assessments. Funds in the amount of $850,000 in fiscal year 2002-2003 and $850,000 in fiscal year 2003-2004 shall be transferred to Mines and Minerals.

81. PUBLIC ADVOCACY

	2002-03	2003-04
General Fund	23,925,300	25,264,800
Restricted Funds	2,980,900	3,077,900
Federal Funds	1,313,100	1,384,500
Total	28,219,300	29,727,200

82. PUBLIC SERVICE COMMISSION

	2002-03	2003-04
General Fund	11,527,900	11,752,100
Restricted Funds	24,000	24,000
Federal Funds	259,800	272,200
Total	11,811,700	12,048,300

Included in the above General Fund appropriation is $589,000 in fiscal year 2002-2003 and $589,000 in fiscal year 2003-2004 for debt service on bonds for the new office building authorized by the 1996 General Assembly.

Any General Fund appropriation to the Public Service Commission that is unexpended in fiscal years 2001-2002 or 2002-2003 shall not lapse and shall be carried forward into the next fiscal year, notwithstanding KRS 45.229.

83. SECRETARY

a. General Operations

	2002-03	2003-04
General Fund	268,200	278,600
Restricted Funds	2,036,900	2,095,700
Total	2,305,100	2,374,300

b. Petroleum Storage Tank Environmental Assurance Fund

	2002-03	2003-04
Restricted Funds	32,103,700	29,660,600

TOTAL - SECRETARY

	2002-03	2003-04
General Fund	268,200	278,600
Restricted Funds	34,140,600	31,756,300
Total	34,408,800	32,034,900

84. BOARD OF TAX APPEALS

	2002-03	2003-04
General Fund	478,100	498,600

85. CHARITABLE GAMING

	2002-03	2003-04
Restricted Funds	3,460,800	3,603,800

Notwithstanding KRS 238.570, the gross receipts fee for fiscal year 2002-2003 and fiscal year 2003-2004 shall be fifty-three one-hundreths percent (.53 %).

TOTAL - PUBLIC PROTECTION AND REGULATION CABINET

	2002-03	2003-04
General Fund (Tobacco)	19,405,200	16,855,900
General Fund	48,986,300	53,078,700
Restricted Funds	109,268,100	107,431,200
Federal Funds	2,718,300	2,813,000
TOTAL	180,377,900	180,178,800

N. REVENUE

Budget Units

86. REVENUE CABINET

	2002-03	2003-04
General Fund	67,852,000	65,032,000
Restricted Funds	4,519,000	4,149,200
Road Fund	1,418,000	1,418,000
TOTAL	73,789,000	70,599,200

Notwithstanding KRS 136.392, the insurance surcharge rate shall be calculated at a rate to provide sufficient funds in the 2002-2004 fiscal biennium for the Firefighters Foundation Program Fund and the Kentucky Law Enforcement Foundation Program Fund, including the administration of training programs, pay supplements prescribed by statute, and debt service for the respective program funds specified in KRS 15.410 to 15.510, KRS 42.190, KRS 95A.220, and KRS 95A.262 in fiscal year 2002-2003 and fiscal year 2003-2004. The calculation of sufficient funds for the above-named programs shall include any Restricted Funds carried forward from fiscal years 2002-2003 and 2003-2004 provided by the General Assembly in this Act.

The above Road Fund appropriation represents the cost of the Road Fund Compliance and Motor Vehicle Property Tax programs within the Revenue Cabinet and is to be used exclusively for that purpose.

Notwithstanding the provisions of KRS 134.400, the administration of the Delinquent Tax Fund is in the Department of Property Valuation. Proceeds shall be deposited to this account except that the first $100,000 shall be deposited exclusively to the General Fund. The Revenue Cabinet may retain and expend funds from the accumulated balance in the Delinquent Tax Fund account for the administrative activities of the Revenue Cabinet.

87. PROPERTY VALUATION ADMINISTRATORS

	2002-03	2003-04
General Fund	26,769,800	27,536,300
Restricted Funds	3,894,100	4,464,100
TOTAL	30,663,900	32,000,400

Notwithstanding KRS 132.590(3)(c), KRS 132.590(4), and KRS 132.597, the property valuation administrators are authorized to take necessary actions to manage expenditures within the appropriated amounts contained in this Act.

TOTAL - REVENUE CABINET

	2002-03	2003-04
General Fund	94,621,800	92,568,300
Restricted Funds	8,413,100	8,613,300
Road Fund	1,418,000	1,418,000

TOTAL	104,452,900	102,599,600

O. TOURISM DEVELOPMENT CABINET

Budget Units

88. OFFICE OF THE SECRETARY

	2002-03	2003-04
General Fund	4,259,000	4,534,000
Restricted Funds	119,000	1,200,000
TOTAL	4,378,000	5,734,000

Included in the above General Fund appropriation is $2,500,000 in fiscal year 2002-2003 and $2,500,000 in fiscal year 2003-2004 for the purpose of supporting expenditures relating to agencies and programs within the Tourism Development Cabinet. The Secretary of the Tourism Development Cabinet shall have the ability to transfer these funds to other programs and budget units within the Tourism Development Cabinet. Any funds transferred to other agencies within the Tourism Development Cabinet shall be designated as Restricted Funds and may be used to support the activities, programs, and operations of the agency receiving the respective funds.

89. BREAKS INTERSTATE PARK

	2002-03	2003-04
General Fund	200,000	200,000

90. TRAVEL DEVELOPMENT

	2002-03	2003-04
General Fund	7,041,000	7,211,000

91. PARKS

	2001-02	2002-03	2003-04
General Fund		29,446,000	29,518,000
Restricted Funds	400,000	50,898,000	52,400,000
Federal Funds	14,000		
TOTAL	414,000	80,344,000	81,918,000

Notwithstanding the provisions of KRS 148.800 to KRS 148.810 or any other statute or provision of law to the contrary, the General Assembly authorizes the use of the Park Capital Maintenance and Renovation Fund for any ongoing cost of the Department of Parks.

92. KENTUCKY HORSE PARK

	2001-02	2002-03	2003-04
General Fund	300,000	1,750,000	1,650,000
Restricted Funds		5,200,000	5,632,000
TOTAL	300,000	6,950,000	7,282,000

93. KENTUCKY STATE FAIR BOARD

	2002-03	2003-04
General Fund	407,000	407,000
Restricted Funds	29,923,000	30,433,000
TOTAL	30,330,000	30,840,000

Included in the Restricted Funds appropriation is $371,000 in fiscal year 2002-2003 and $371,000 in fiscal year 2003-2004 for debt service for Project 55.

Any available Restricted Funds included in the State Fair Board's Capital Budget Account may be transferred to the operating budget to support personnel and operating expenses of the State Fair Board.

94. FISH AND WILDLIFE RESOURCES

	2002-03	2003-04
Restricted Funds	27,381,000	28,658,000
Federal Funds	7,850,000	7,650,000
TOTAL	35,231,000	36,308,000

TOTAL-TOURISM DEVELOPMENT CABINET

	2001-02	2002-03	2003-04
General Fund	300,000	43,103,000	43,520,000
Restricted Funds	400,000	113,761,000	118,563,000
Federal Funds	14,000	7,850,000	7,650,000
TOTAL	714,000	164,714,000	169,733,000

P. TRANSPORTATION CABINET

95. TRANSPORTATION CABINET

Budget Units

a. Air Transportation

	2002-03	2003-04
Restricted Funds	4,817,200	4,817,900
Federal Funds	13,800	9,400
TOTAL	4,831,000	4,827,300

Notwithstanding KRS 183.525(5), the Restricted Funds appropriation above includes operational costs of the program.

b. Revenue Sharing

	2001-2002	2002-03	2003-04
Road Fund	6,458,800	217,962,400	221,866,600

1. The Official Road Fund Revenue Estimate, revised in December 2001, increased the 2001-2002 estimate by $49,626,000, of which $6,458,800 is appropriated to the Revenue Sharing programs. In accordance with KRS Chapter 177, this increased revenue shall be appropriated to the County Road Aid program, $2,452,200; the Rural Secondary program, $2,974,800; and the Municipal Aid program, $1,031,800.

2. Included in the above Road Fund appropriation is $82,440,100 in fiscal year 2002-2003 and $83,922,400 in fiscal year 2003-2004 for the County Road Aid program in accordance with KRS 177.320, 179.410, 179.415, and 179.440. Notwithstanding KRS 177.320(2), the above amount has been reduced by $38,000 in fiscal year 2002-2003 and $38,000 in fiscal year 2003-2004 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

3. Included in the above Road Fund appropriation is $100,009,400 in fiscal year 2002-2003 and $101,807,600 in fiscal year 2003-2004 for the Rural Secondary program in accordance with KRS 177.320, 177.330, 177.340, 177.350, and 177.360. Notwithstanding KRS 177.320(1), the above amount has been reduced by $46,000 in fiscal year 2002-2003 and $46,000 in fiscal year 2003-2004 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

4. Included in the above Road Fund appropriation is $34,687,900 in fiscal year 2002-2003 and $35,311,600 in fiscal year 2003-2004 for the Municipal Road Aid program in accordance with KRS 177.365 to 177.369. Notwithstanding KRS 177.365(1), the above amount has been reduced by $16,000 in fiscal year 2002-2003 and $16,000 in fiscal year 2003-2004 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

5. Included in the above Road Fund appropriation is $825,000 in fiscal year 2002-2003 and $825,000 in fiscal year 2003-2004 for the Energy Recovery Road Fund in accordance with KRS 177.977 to 177.981.

c. Public Transportation

	2002-03	2003-04
General Fund	5,520,300	4,875,300
Restricted Funds	2,506,100	874,100
Federal Funds	28,864,900	27,517,000
Total	36,891,300	33,266,400

Included in the above General Fund appropriation is $2,500,000 in fiscal year 2002-2003 and $2,500,000 in fiscal year 2003-2004 for non-public school transportation.

Included in the above General Fund appropriation is $645,000 in fiscal year 2002-2003 to match federal grants for the TARC Transportation Tomorrow Rapid Transit Study.

d. Highways

	2001-2002	2002-03	2003-04
Restricted Funds		61,627,300	61,633,800
Federal Funds		495,939,000	496,114,400

Road Fund	43,167,200	570,470,500	597,427,400
Total	43,167,200	1,128,036,800	1,155,175,600

1. The Official Road Fund Revenue Estimate, revised in December 2001, increased the 2001-2002 estimate by $49,626,000, of which $43,167,200 is appropriated to the State Funded Construction program.

2. Included in the above Road Fund appropriation is $209,051,100 in fiscal year 2002-2003 and $218,209,500 in fiscal year 2003-2004 for the State Funded Construction program.

Included in the State Funded Construction program is $66,000,000 in fiscal year 2002-2003 and $67,320,000 in fiscal year 2003-2004 from the Road Fund for the State Resurfacing program.

Included in the State Funded Construction program is $500,000 in fiscal year 2002-2003 and $500,000 in fiscal year 2003-2004 from the Road Fund for the Specialized Contracts account.

Included in the State Funded Construction program is $105,551,100 in fiscal year 2002-2003 and $112,649,500 in fiscal year 2003-2004 from the Road Fund for state construction projects in the 2002-2004 Biennial Highway Construction program.

Included in the State Funded Construction program is $37,000,000 in fiscal year 2002-2003 and $37,740,000 in fiscal year 2003-2004 for the Highway Construction Contingency Account.

3. Projects in the enacted 2000-2002 Biennial Highway Construction Plan are authorized to continue their current authorization into the 2002-2004 biennium.

4. Notwithstanding KRS 177.320(4), included in the above Road Fund appropriation is $290,000 in fiscal year 2002-2003 and $290,000 in fiscal year 2003-2004 for the Kentucky Transportation Center.

5. Notwithstanding KRS 48.710, Restricted Funds are appropriated in the amount of $1,500,000 in fiscal year 2002-2003 and $1,500,000 in fiscal year 2003-2004 from the sale of surplus equipment to purchase new highway equipment.

e. Vehicle Regulation

	2002-03	2003-04
Restricted Funds	7,001,700	6,699,300
Federal Funds	2,786,600	2,826,200
Road Fund	30,189,400	31,588,000
Total	39,977,700	41,113,500

f. Debt Service

	2002-03	2003-04
Road Fund	167,660,900	161,312,100

1. Included in the above Road Fund appropriation is $620,600 in fiscal year 2002-2003 and $620,600 in fiscal year 2003-2004 for toll road lease rental payments.

2. Included in the above Road Fund appropriation is $26,334,900 in fiscal year 2002-2003 and $38,889,500 in fiscal year 2003-2004 for Resource Recovery Road lease rental payments. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Transportation Cabinet, pursuant to KRS 143.090. However, if Road Fund resources are not sufficient to meet lease rental payments, the additional amount required to meet the obligation shall be transferred from the proceeds of the tax levied on the severance or processing of coal by KRS 143.020.

3. Included in the above Road Fund appropriation is $140,705,400 in fiscal year 2002-2003 and $121,802,000 in fiscal year 2003-2004 for Economic Development Road lease rental payments relating to projects financed by Economic Development Road Revenue Bonds previously issued by the Turnpike Authority of Kentucky.

4. Any moneys not required to meet lease-rental payments or to meet the administrative costs of the Turnpike Authority shall be transferred to the State Construction account.

5. Notwithstanding KRS 175.505, no portion of the revenues to the state Road Fund provided by the adjustments in KRS 138.220(2), excluding KRS 177.320 and 177.365, shall accrue to the Debt Payment Acceleration Fund account during the 2002-2004 biennium.

g. General Administration and Support

	2002-03	2003-04
Restricted Funds	29,050,000	29,050,000
Road Fund	69,922,100	75,250,200
Total	98,972,100	104,300,200

Included in the above Road Fund appropriation is $7,165,600 in fiscal year 2002-2003 and $7,335,500 in fiscal year 2003-2004 for debt service for previously authorized bonds to construct a new Transportation Cabinet Office Building and parking structure.

h. Judgments

Road Fund resources required to pay judgments shall be transferred from the State Construction Account at the time when actual payments must be disbursed from the State Treasury.

Notwithstanding KRS 45.229, any funds not expended by June 30, 2002, and June 30, 2003, shall not lapse and shall carry forward to the next fiscal year.

TOTAL - TRANSPORTATION CABINET

	2001-02	2002-03	2003-04
General Fund		5,520,300	4,875,300
Restricted Funds		105,002,300	103,075,100
Federal Funds		527,604,300	526,467,000
Road Fund	49,626,000	1,056,205,300	1,087,444,300
TOTAL	49,626,000	1,694,332,200	1,721,861,700

Q. WORKFORCE DEVELOPMENT CABINET

Budget Units

96. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	2002-03	2003-04
General Fund	1,145,900	1,390,100
Restricted Funds	6,661,200	6,696,400
Federal Funds	190,300	175,400
Total	7,997,400	8,261,900

97. TECHNICAL EDUCATION

	2001-02	2002-03	2003-04
General Fund		23,251,700	23,517,100
Restricted Funds	1,393,000	20,087,400	19,672,600
Federal Funds	3,464,600	13,037,200	13,037,200
Total	4,857,600	56,376,300	56,226,900

98. ADULT EDUCATION AND LITERACY

	2001-02	2002-03	2003-04
General Fund		11,096,100	11,272,400
Restricted Funds		11,104,300	11,104,300
Federal Funds		12,624,500	15,149,400
Total		34,824,900	37,526,100

99. VOCATIONAL REHABILITATION

	2002-03	2003-04
General Fund	10,895,200	11,056,400
Restricted Funds	2,911,100	2,955,100
Federal Funds	43,328,800	44,193,800
Total	57,135,100	58,205,300

100. DEPARTMENT FOR THE BLIND

	2002-03	2003-04
General Fund	1,282,800	1,492,600
Restricted Funds	1,948,800	1,979,000
Federal Funds	7,484,600	7,636,700
Total	10,716,200	11,108,300

101. TEACHERS' RETIREMENT-EMPLOYER'S CONTRIBUTION

	2002-03	2003-04
General Fund	4,627,700	4,743,400

The above General Fund appropriation includes the employer match for salaries paid to Workforce Development Cabinet employees who participate in the Teachers' Retirement System. This match shall be forwarded to the Teachers' Retirement System pursuant to KRS 161.560.

102. TRAINING AND REEMPLOYMENT

	2002-03	2003-04
Federal Funds	48,530,400	49,350,300

103. EMPLOYMENT SERVICES

	2001-02	2002-03	2003-04
General Fund		1,580,400	928,800
Restricted Funds		6,601,700	7,443,500
Federal Funds	6,592,900	510,779,300	509,073,300
TOTAL	6,592,900	518,961,400	517,445,600

Notwithstanding KRS 341.835, funds from the Unemployment Insurance Penalty and Interest Account in the Unemployment Compensation Administration Fund shall be used during each fiscal year by the Department for Employment Services to operate employment and training programs.

There is appropriated out of the Federal Funds made available to Kentucky under Section 903 of the Social Security Act, as amended, funds during the 2002-2004 biennium to be used under the direction of the Department for Employment Services for the purpose of administration of its unemployment compensation law and public employment offices.

TOTAL - WORKFORCE DEVELOPMENT CABINET

	2001-02	2002-03	2003-04
General Fund		53,879,800	54,400,800
Restricted Funds	1,393,000	49,314,500	49,850,900
Federal Funds	10,057,500	635,975,100	638,616,100
TOTAL	11,450,500	739,169,400	742,867,800

PART II

CAPITAL PROJECTS BUDGET

Moneys in the Capital Construction Fund are appropriated for the following capital projects subject to the conditions and procedures in this Act. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 2002-2004 biennium. Unless otherwise specified, reauthorized projects shall conform to the original authorization enacted by the General Assembly.

A. GOVERNMENT OPERATIONS

Budget Unit	2002-03	2003-04
1. Treasury Department		
a. Checksealer Equipment - Lease - Additional		
Capital Construction Surplus	63,000	63,000
b. Laser Check Printers - Lease - Additional		
Capital Construction Surplus	257,000	256,000
2. Attorney General		
a. Franklin County - Lease		
3. Unified Prosecutorial System - Commonwealth's Attorneys		
a. Jefferson County - Lease		
4. Governor's Office for Technology		

For the major equipment purchases displayed in this section as funded from Restricted Funds, it is anticipated that these funds shall be transferred from the Operating Budget as funds are available and needed.

Budget Unit	2002-03	2003-04
a. Statewide Microwave Network Maintenance		
Investment Income	1,500,000	
b. Unified Criminal Justice Information System		
Reauthorization		
Capital Construction Surplus - Additional1,000,000		
Restricted Funds	805,000	
Total	1,805,000	

c. KY Information Highway Upgrade Expansion - Additional		
Restricted Funds	1,750,000	1,750,000
d. Enterprise Server Complex Upgrade - Additional		
Restricted Funds	2,370,000	2,370,000
e. Disk Storage Upgrade - Additional		
Restricted Funds	887,000	887,000
f. Tape Storage Upgrade - Additional		
Restricted Funds	645,000	645,000
g. Enterprise Messaging		
Restricted Funds	660,000	
h. NASA Grant for Geographic Information Systems		
Restricted Funds (247,000 - FY 2001-2002)		
Federal Funds (1,392,000 - FY 2001-2002)		
Total (1,639,000 - FY 2001-2002)		
i. Franklin County - Lease		
5. Governor's Office of Veterans' Affairs		
a. New State Veterans' Cemetery-Northern KY		
General Fund	50,000	
Federal Funds	9,500,000	
b. New State Veterans' Cemetery-Central KY		
General Fund	50,000	
Federal Funds	8,900,000	
6. Kentucky Infrastructure Authority		
a. KIA Fund A - Federally Assisted Wastewater Program		
Bond Funds	6,200,000	

The Bond Funds appropriated above are the required state match for the federal program. The Federal Funds associated with the program are appropriated in the operating budget to comply with the Federal Cash Management Act.

Included in the above Bond Funds appropriation is the funding required in each fiscal year for the state match necessary to receive Federal Funds for the Rural Communities Hardship Grants program administered by the Natural Resources and Environmental Protection Cabinet.

The Kentucky Infrastructure Authority is authorized to expend the cash balances from loan repayments on deposit at the trustee bank for financial assistance, in the form of low-interest loans, to governmental agencies for professional planning and preliminary engineering design work required for eligible Fund A wastewater projects.

b. KIA Fund F - Drinking Water Revolving Loan Program		
Bond Funds	5,000,000	

The Bond Funds appropriated above are the required state match for the federal program. The Federal Funds associated with the program are appropriated in the operating budget to comply with the Federal Cash Management Act.

7. Department of Agriculture		
a. Large Scale Tractor		
Restricted Funds	175,000	
b. Purchase of Agriculture Conservation Easements		
Federal Funds	460,000	
c. Livestock Scale Testing Unit		
Resticted Funds	100,000	
d. Franklin County - Lease		
8. Department of Military Affairs		
a. Construct Maintenance Shop- London		
Federal Funds	3,640,000	
b. Construct Combined Support Maintenance Shop		
Federal Funds	10,465,000	

	c.	Construct Army Aviation Support Facility		
		Federal Funds	17,500,000	
	d.	Construct Fixed Wing Aviation Facility		
		Federal Funds	4,000,000	
	e.	Upgrade HVAC Ashland Armory (Guaranteed Energy Performance Contract)		
	f.	Upgrade HVAC Owensboro Armory (Guaranteed Energy Performance Contract)		
	g.	Construct Addition to Facilities Building		
		Federal Funds	911,000	
	h.	Maintenance Pool		
		Investment Income	1,000,000	1,000,000
	i.	Maintenance Pool - Air Transportation		
		Investment Income	400,000	400,000
	j.	Maintenance Pool - Bluegrass Station		
		Restricted Funds	500,000	500,000
	k.	Franklin County - Lease		
9.		Department for Local Government		
	a.	Flood Control Matching Fund		
		Capital Construction and Equipment Purchase Contingency Fund	300,000	
10.		Morgan County - Park Development - Caney Creek (Reauthorization and Reallocation ($30,709 - Bond Funds)		

The project cited immediately above is authorized from a reallocation of the available balance of the Morgan County Bridge Project appropriated by the 2000 General Assembly in the amount $200,000 in Bond Funds (2000 Ky Acts, Ch. 549, Part II, R. Community Development Projects, 1. Finance and Administration Cabinet, number 556, Morgan County Bridge Project.) In accordance with the provisions of Part II (1), Capital Projects Budget Provisions, of this Act, this project is reauthorized and reallocated to provide for development of a park at the mouth of Caney Creek.

11.		Kentucky Retirement Systems		
	a.	Franklin County - Lease		
	b.	Franklin County - Lease		
12.		Kentucky River Authority		
	a.	Kentucky River Storage Enhancements		
		Restricted Funds	30,000	2,500,000

B. CABINET FOR ECONOMIC DEVELOPMENT

Budget Unit			2002-03	2003-04
1.		Economic Development Projects		
	a.	Economic Development Bond Pool		
		Reauthorization ($12,293,000 - Bond Funds)		

Notwithstanding KRS 154.12-100(6), the amounts shown above reflect project amounts.

	b.	New Economy High-Tech Investment/Construction Pool		
		Restricted Funds	10,000,000	10,000,000

The Commissioner of the Office for the New Economy shall determine the amounts to be apportioned between the High-Tech Investment Pool and the High-Tech Construction Pool.

C. EDUCATION

Budget Unit			2002-03	2003-04
1.		Department of Education		
	a.	Security, Fire Alarm, & Energy Systems - Kentucky School for the Blind		
		Capital Construction and Equipment Purchase Contingency Fund	450,000	

	b.	Replace Kerr Hall HVAC - Kentucky School for the Deaf		
		Capital Construction and Equipment Purchase Contingency Fund	1,067,000	
	c.	Maintenance Pool		
		Investment Income	785,000	785,000
	d.	Roof Repair - Kentucky School for the Deaf		
		Capital Construction Surplus	520,000	

D. EDUCATION, ARTS, AND HUMANITIES CABINET

Budget Unit			2002-03	2003-04
1.		Kentucky Educational Television		
	a.	Camera Replacement		
		Restricted Funds	445,000	
2.		Kentucky Center for the Arts		
	a.	Maintenance Pool		
		Investment Income	150,000	150,000
	b.	Chiller Replacement		
		Investment Income	250,000	
	c.	Water Leak and Window Repair		
		Deferred Maintenance	957,000	
3.		School Facilities Construction Commission		
		Reauthorization ($28,000,000 Bond Funds)		
		Bond Funds - Additional	100,000,000	

E. CABINET FOR FAMILIES AND CHILDREN

Budget Unit			2002-03	2003-04
1.		Administration Services		
	a.	Lease - Disability Determinations Franklin County		
	b.	Lease - Fayette County		
	c.	Lease - Warren County		
	d.	Lease - Kenton County		
	e.	Lease including expansion - Jefferson County		
	f.	Lease - Hardin County		
	g.	Lease - Kenton County		
	h.	Lease - Campbell County		
	i.	Lease - Child Support Franklin County		
	j.	Lease including expansion - Letcher County		
	k.	Lease - OTS Franklin County		
	l.	Lease including expansion - Harlan County		
	m.	Lease including expansion - Henderson County		
	n.	Lease including expansion - Perry County		
	o.	Lease - Shelby County		
	p.	Lease including expansion - Fayette County		
	q.	Lease - Johnson County		
	r.	Lease including expansion - Boyd County		
	s.	Lease including expansion - Boone County		

F. FINANCE AND ADMINISTRATION CABINET

Budget Unit			2002-03	2003-04
1.		Department for Administration		
	a.	Franklin County - Lease		

2. Department for Facilities Management		
a. Statewide Land Acquisition		
Capital Construction and Equipment Purchase Contingency Fund	1,800,000	
b. Capitol Historic Restoration/Asbestos Removal/Repair - State Office Building		
Reauthorization/Reallocation (6,000,000 - Bond Funds)		
c. Energy Efficiency in State Government Buildings		
Restricted Funds	1,075,000	
d. Replace Roof - Civic Center		
Investment Income	1,200,000	
e. Maintenance Pool		
Investment Income	5,564,000	4,400,000
Restricted Funds	240,000	100,000
Total	5,804,000	4,500,000
f. Modernize Elevators/Escalators - Various Buildings		
Investment Income	1,300,000	
g. Install Building Security Systems - Various Buildings		
Restricted Funds	750,000	
h. Capital Construction and Equipment Purchase Contingency Fund		
Restricted Funds	3,350,000	
i. Emergency Repair, Maintenance and Replacement Fund		
Restricted Funds	4,195,000	
3. Lottery Corporation		
a. Network Storage and Associated Infrastructure		
Other Funds	930,000	
b. Contingency on Property Adjacent to New Headquarters		
Other Funds	3,500,000	
c. Data Processing, Telecommunication, and Related Equipment		
Other Funds	3,500,000	
d. Potential Buyout of On-Line Gaming System		
Other Funds	18,450,000	
e. Instant Ticket Vending Machine		
Other Funds	900,000	900,000
f. Pull Tab Ticket Vending Machines		
Other Funds	1,500,000	1,500,000

The Kentucky Lottery Corporation may acquire properties related to the consolidation of the Kentucky Lottery's facilities assuming one or more of the properties becomes available for purchase. The purchase price of the properties shall not exceed $2,500,000 in the aggregate.

G. CABINET FOR HEALTH SERVICES

Budget Unit	2002-03	2003-04
1. Department for Mental Health/Mental Retardation Services		
a. Miscellaneous Roof Replacement/Repair Pool		
Capital Construction and Equipment Purchase Contingency Fund	700,000	
b. Statewide Chiller Replacement Pool		
Capital Construction and Equipment Purchase Contingency Fund	612,000	
c. Franklin County - Lease		

	d.	Maintenance Pool		
		Investment Income	1,840,000	1,840,000
	e.	Water Piping Replacement System - Eastern State Hospital/Veterans Hospital Relocation		
		Reauthorization & Reallocation		
		Capital Construction Surplus - Additional250,000		
	f.	Sprinkler System - Western State Hospital		
		Capital Construction and Equipment Purchase Contingency Fund	2,200,000	
	g.	Structural Repair/Renovation - Oakwood		
		Capital Construction Surplus	2,009,000	
	h.	Sprinkler System - Central State Hospital		
		Investment Income	850,000	
	i.	Veterans Administration Hospital - Lease		
2.		Public Health		
	a.	Kentucky All Schedule Prescription Electronic Reporting		
		Capital Construction and Equipment Purchase Contingency Fund	1,474,000	

H. JUSTICE CABINET

Budget Unit			2002-03	2003-04
1.		Department of State Police		
	a.	Purchase of Equipment for DNA Analysis		
		Restricted Funds	136,000	136,000
	b.	Maintenance Pool		
		Investment Income	250,000	250,000
2.		Department of Juvenile Justice		
	a.	Combined Residential/Detention Facility - Hardin -Additional		
		Federal Funds	1,000,000	
	b.	Secure Juvenile Detention Facility #3 - Boyd - Additional		
		Federal Funds	500,000	
	c.	Maintenance Pool		
		Investment Income	500,000	500,000
	d.	Purchase Land/Build Gym/Class Cadet Leadership/Education Program		
		Restricted Funds	130,000	
		Federal Funds	1,170,000	
		Total	1,300,000	
	e.	Add Classrooms - Green River Youth Development Center		
		Restricted Funds	60,000	
		Federal Funds	540,000	
		Total	600,000	
3.		Department of Criminal Justice Training		
	a.	Law Enforcement Training Complex - Furniture - Equipment		
		Restricted Funds - (1,800,000 - FY 2001-2002)		
4.		Corrections Management		
	a.	Replace/Repair Roofs - Green River Correctional Complex		
		Capital Construction and Equipment Purchase Contingency Fund	2,500,000	
	b.	Replace Underground Steam & Condensate Lines - Blackburn Correctional		

		Complex		
		Capital Construction and Equipment		
		Purchase Contingency Fund	1,260,000	
	c.	Replace Fire Alarm System - Luther Luckett Correctional Complex		
		Capital Construction and Equipment		
		Purchase Contingency Fund	1,000,000	
	d.	Replace Dorm Roofs - Northpoint Training Center		
		Capital Construction and Equipment		
		Purchase Contingency Fund	600,000	
	e.	Replace Four Color Heidelberg Printing Press		
		Restricted Funds	900,000	
	f.	Purchase Plascon Bagmaking Machine		
		Restricted Funds	160,000	
	g.	Various Adult Correctional Institutions (Guaranteed Energy Performance Contract)		
	h.	Maintenance Pool		
		Investment Income	2,000,000	2,000,000
	i.	New Medium Security Facility/Design Elliott County Phase II Reauthorization and Reallocation (1,800,000 - Bond Funds)		
	j.	Fayette County - Lease		
	k.	Boot Camp/Substance Abuse Treatment Center-Roederer Correctional Complex Reauthorization and Reallocation (1,004,000 - Bond Funds)		
5.	Justice Administration			
	a.	Purchase 2 Gas/Liquid Chromatograph Mass/Spectrometers		
		Capital Construction Surplus	250,000	

I. LABOR CABINET

Budget Unit			2002-03	2003-04
1.	General Administration and Support			
	a.	Franklin County - Lease		
2.	Workers' Claims			
	a.	Franklin County - Lease		

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Budget Unit			2002-03	2003-04
1.	General Administration and Support			
	a.	KY Heritage Land Conservation		
		Restricted Funds	3,000,000	3,000,000
		Federal Funds	1,000,000	1,000,000
		Total	4,000,000	4,000,000
	b.	Maintenance Pool		
		Investment Income	115,000	115,000
2.	Department for Environmental Protection			
	a.	Hazardous Waste Management Fund		
		Restricted Funds	2,100,000	2,100,000
	b.	Leaking Underground Storage Tanks		
		Restricted Funds	500,000	500,000
	c.	State-Owned Dam Repair - Additional		
		Deferred Maintenance	1,000,000	
	d.	Franklin County - Lease (Water)		

e. Franklin County - Lease (Air Quality)		
f. Construct Deep Well Monitoring - Maxey Flats		
Capital Construction and Equipment Purchase Contingency Fund	500,000	
3. Department for Surface Mining Reclamation and Enforcement		
a. Franklin County - Lease		
4. Kentucky Nature Preserves Commission		
a. KY Nature Preserves Acquisition		
Other Funds	300,000	300,000

K. PERSONNEL CABINET

Budget Unit	2002-03	2003-04
1. Personnel		
a. Franklin County - Lease		
b. Computer Equipment - Kentucky Employees' Self-Service Project		
Capital Construction Surplus	200,000	

L. POSTSECONDARY EDUCATION

Budget Unit	2002-03	2003-04
1. Council on Postsecondary Education		
a. Agency Bond Pool		
Agency Bonds	66,800,000	
b. Franklin County - Lease		
c. Research Challenge Trust Fund - Endowment Match		
Bond Funds	100,000,000	
d. Regional University Excellence Trust Fund - Endowment Match		
Bond Funds	20,000,000	
2. Kentucky Higher Education Assistance Authority		
a. Upgrade Information Technology Systems		
Restricted Funds	650,000	
b. Franklin County - Lease		
c. KY Higher Education Student Loan Corporation Lease - Jefferson County		
3. Eastern Kentucky University		
a. Maintenance Pool		
Restricted Funds	10,000,000	
b. E & G Life Safety Begley Elevator		
Restricted Funds	750,000	
c. Various Buildings (Guaranteed Energy Savings Project)		
d. Expand, Upgrade Campus Data Network		
Restricted Funds	1,000,000	
e. Purchase Network Education System Component		
Restricted Funds	2,050,000	
f. Upgrade Academic Computing		
Restricted Funds	1,000,000	
g. Upgrade Administrative Computing System		
Restricted Funds	1,100,000	
h. Property Acquisition		
Restricted Funds	3,000,000	

	i.	Replace Student Housing, Brockton		
		Restricted Funds	8,250,000	
	j.	Expand and Renovate Presnell Building		
		Restricted Funds	2,000,000	
	k.	Expand Indoor Tennis Facility		
		Restricted Funds	1,000,000	
	l.	Watts Property (Elmwood) Renovation		
		Restricted Funds	2,000,000	
	m.	Greek Row		
	Reauthorization			
4.	Kentucky State University			
	a.	Renovate and Expand Student Center		
		Reauthorization		
		Restricted Funds - Additional	4,400,000	
	b.	Young Hall Renovation		
		Reauthorization		
		Restricted Funds - Additional	6,214,000	
	c.	Capital Renewal and Deferred Maintenance Pool		
		Restricted Funds	1,500,000	
	d.	Migrate to Client-Server and Laptop Campus Technology		
		Restricted Funds	860,000	
	e.	Enhance Distance Education		
		Restricted Funds	560,000	
	f.	Extend Fiber Network to South Campus		
		Restricted Funds	806,000	
	g.	Enhance Web Site		
		Restricted Funds	410,000	
	h.	Implement Smart Card Technology		
		Restricted Funds	1,120,000	
	i.	Various Buildings (Guaranteed Energy Savings Project)		
	j.	Cooperative Extension Building Expansion		
		Reauthorization		
		Restricted Funds - Additional	3,224,000	
5.	Morehead State University			
	a.	Capital Renewal and Deferred Maintenance Pool		
		Restricted Funds	3,414,000	3,414,000
	b.	Life Safety: Auxiliary Facilities		
		Restricted Funds	3,000,000	
	c.	Parking Structure		
		Restricted Funds	6,000,000	
	d.	Life Safety: E & G Facilities		
		Restricted Funds	1,350,000	
	e.	Life Safety: Claypool-Young Building		
		Restricted Funds	500,000	
	f.	Americans with Disabilities Act - E & G		
		Restricted Funds	600,000	600,000
	g.	Combs Theatre Area Reclamation		

		Restricted Funds	1,100,000	
	h.	Button Auditorium Renovation		
		Restricted Funds	3,000,000	
	i.	Various Buildings		
		(Guaranteed Energy Savings Project)		
		(FY 2002)		
	j.	Americans with Disabilities Act - Auxiliary		
		Restricted Funds	600,000	600,000
	k.	Land Acquisitions Related to Master Plan		
		Restricted Funds	2,000,000	
	l.	Instructional Technology Initiatives		
		Restricted Funds	2,159,000	
	m.	HPLC-Mass Spectrometer		
		Restricted Funds	140,000	
	n.	Instructional and Support Equipment		
		Restricted Funds	1,334,000	
	o.	Nuclear Magnetic Resonance Equipment		
		Restricted Funds	210,000	
	p.	Network/Infrastructure Resources		
		Restricted Funds	2,250,000	
	q.	Library Automation Resources		
		Restricted Funds	750,000	
	r.	Distance Learning Systems		
		Restricted Funds	2,500,000	
	s.	Compressed Video Resources		
		Restricted Funds	1,891,000	
	t.	Instructional PC's/LANS/Peripherals		
		Restricted Funds	2,500,000	
	u.	Administrative Office Systems		
		Restricted Funds	2,000,000	
	v.	Central Campus Reconstruction		
		Restricted Funds	780,000	
	w.	Student Wellness Center Expansion		
		Restricted Funds	700,000	
	x.	Kentucky Center for Traditional Music - Phase I		
		Restricted Funds	1,000,000	
	y.	Construction of Family Housing Complexes - Phase II		
		Restricted Funds	4,000,000	
	z.	Tour Bus		
		Restricted Funds	400,000	
6.	Murray State University			
	a.	Construct Recreation/Wellness Center		
		Restricted Funds	10,000,000	
	b.	Equine Instruction Facility Addition		
		Restricted Funds	650,000	
	c.	Various Buildings		
		(Guaranteed Energy Savings Project)		
	d.	Campus Electrical Distribution System Upgrade		

	Restricted Funds	10,765,000
e.	Construct New Dormitories	
	Restricted Funds	10,154,000
f.	Woods Hall Mechanical and HVAC System Upgrade	
	Restricted Funds	2,000,000
g.	Land Acquisition	
	Restricted Funds	500,200
h.	Elizabeth Hall Asbestos Ceilings	
	Restricted Funds	450,000
i.	Hester Hall Asbestos Ceilings	
	Restricted Funds	450,000
j.	College Courts Renovation	
	Restricted Funds	3,636,000
k.	College Courts Interiors (12 Buildings) Renovation	
	Restricted Funds	2,000,000
l.	Clark Hall Replacement	
	Restricted Funds	8,000,000
m.	Clark Hall Water Piping, Fixtures Replacement	
	Restricted Funds	600,000
n.	Replace Richmond Hall	
	Restricted Funds	8,000,000
o.	College Courts Electrical System Upgrade	
	Restricted Funds	1,200,000
p.	Franklin Hall Replacement	
	Restricted Funds	8,000,000
q.	Heating and Cooling Plant Boiler Replacement	
	Restricted Funds	666,000
r.	Sparks Hall Electrical System Upgrade	
	Restricted Funds	952,000
s.	Wells Hall Electrical System Upgrade	
	Restricted Funds	600,000
t.	Applied Science Electrical System Upgrade	
	Restricted Funds	850,000
u.	Renovate Sparks Hall HVAC System	
	Restricted Funds	500,000
v.	Special Education HVAC System	
	Restricted Funds	500,000
w.	Pogue Library Electric and HVAC Renovation	
	Restricted Funds	750,000
x.	Business Building Electricity, HVAC and Classrooms Phase I	
	Restricted Funds	1,530,000
y.	General Services HVAC System Renovation	
	Restricted Funds	500,000
z.	E & G Chiller/CFC Compliance Replacement	
	Restricted Funds	585,000
aa.	Doyle Fine Arts HVAC and Energy Replacement/Retrofit	
	Restricted Funds	750,000
ab.	Richmond Hall (Residential College) Renovation	

	Restricted Funds	2,500,000
ac.	Richmond Hall Interior Renovation	
	Restricted Funds	500,000
ad.	Richmond Hall Water Piping/Fixtures Replacement	
	Restricted Funds	600,000
ae.	Clark Hall Interior Renovation	
	Restricted Funds	500,000
af.	Clark Hall Electrical System Renovation	
	Restricted Funds	400,000
ag.	Clark Hall HVAC System Renovation	
	Restricted Funds	1,000,000
ah.	Franklin Hall HVAC System Renovation	
	Restricted Funds	1,000,000
ai.	Franklin Hall Electrical System Renovation	
	Restricted Funds	400,000
aj.	Franklin Hall Water Piping, Fixtures Replacement	
	Restricted Funds	600,000
ak.	Franklin Hall Interior Renovation	
	Restricted Funds	600,000
al.	Springer Hall HVAC and Electrical System Renovation	
	Restricted Funds	2,000,000
am.	Richmond Hall Electrical System Renovation	
	Restricted Funds	400,000
an.	Springer Hall Water Piping, Fixtures Replacement	
	Restricted Funds	800,000
ao.	Springer Hall Interior Renovation	
	Restricted Funds	600,000
ap.	Hart Hall Renovation	
	Restricted Funds	5,000,000
aq.	Hart Hall Chiller, Boilers, Towers Replacement	
	Restricted Funds	1,200,000
ar.	Hart Hall Electrical System Renovation	
	Restricted Funds	650,000
as.	Elizabeth Hall Electrical System Renovation	
	Restricted Funds	550,000
at.	Hester Hall HVAC System Renovation	
	Restricted Funds	1,000,000
au.	Hester Hall Interior Renovation	
	Restricted Funds	700,000
av.	Hester Hall Boiler, Water Heater Replacement	
	Restricted Funds	600,000
aw.	Hester Hall Electrical System Renovation	
	Restricted Funds	580,000
ax.	Winslow Cafeteria Mechanical Equipment Replacement	
	Restricted Funds	500,000
ay.	Winslow Cafeteria Exterior Repair	
	Restricted Funds	500,000
az.	Elizabeth Hall HVAC System Renovation	

	Restricted Funds	1,200,000
ba.	White Hall Domestic Water Piping Replacement	
	Restricted Funds	500,000
bb.	White Hall HVAC System Renovation	
	Restricted Funds	1,000,000
bc.	White Hall Electrical System Renovation	
	Restricted Funds	600,000
bd.	White Hall Interior Renovation	
	Restricted Funds	700,000
be.	Regents Hall Domestic Water Piping Replacement	
	Restricted Funds	500,000
bf.	Regents Hall HVAC System Renovation	
	Restricted Funds	1,000,000
bg.	Regents Hall Electrical System Renovation	
	Restricted Funds	650,000
bh.	Regents Hall Interior Renovation	
	Restricted Funds	800,000
bi.	Hart Hall Interior Renovation	
	Restricted Funds	1,200,000
bj.	Elizabeth Hall Interior Renovation	
	Restricted Funds	700,000
bk.	Capital Renewal and Deferred Maintenance Pool	
	Restricted Funds	16,885,000
bl.	Telephone Switching System Replacement	
	Restricted Funds	1,000,000
bm.	Waterfield Library HVAC and Mechanical Replacement	
	Restricted Funds	500,000
bn.	Campus Network to Gigabit Ethernet Upgrade	
	Restricted Funds	1,000,000
bo.	Lovett Auditorium Shell/Seats Replacement and Repair	
	Restricted Funds	550,000
bp.	350-Ton Chiller - Regional Special Events Center	
	Restricted Funds	400,000
bq.	COLT Ubiquitous Computing	
	Restricted Funds	434,000
br.	Baseball Field and Stadium Sidewalk Light	
	Restricted Funds	600,000
bs.	BVC Electron Microscope - Scanning	
	Restricted Funds	300,000
bt.	BVC Electron Microscope - Transmission	
	Restricted Funds	250,000
bu.	Broadcasting Education Lab Equipment	
	Restricted Funds	200,000
bv.	Business and Public Affairs Equipment	
	Restricted Funds	300,000
bw.	Central On-Line Storage System	
	Restricted Funds	966,000
bx.	College of Science Instructional/Research Equipment	

		Restricted Funds	300,000
	by.	Fine Arts Studio Equipment	
		Restricted Funds	419,000
	bz.	ICP-MS Fisions Instruments	
		Restricted Funds	142,000
	ca.	Music Computer Equipment	
		Restricted Funds	250,000
	cb.	Optics Lab Equipment	
		Restricted Funds	170,000
	cc.	Recording/Playback Lab & Instrument	
		Restricted Funds	188,000
7.	Northern Kentucky University		
	a.	New Student Union Design	
		Restricted Funds	1,200,000
	b.	Power Distribution Infrastructure Replacement	
		Restricted Funds	700,000
	c.	Structure in AS and T Center Repair	
		Restricted Funds	500,000
	d.	Welcome Center Renovation	
		Restricted Funds	700,000
	e.	Capital Renewal and Maintenance Projects	
		Restricted Funds	2,315,000
	f.	Land Acquisition	
		Restricted Funds	2,500,000
	g.	Central Plaza Reconstruction	
		Restricted Funds	900,000
	h.	Digital Telecom System	
		Restricted Funds	1,900,000
	i.	Baseball Field Relocation	
		Restricted Funds	1,500,000
	j.	Information Technology Infrastructure	
		Restricted Funds	2,700,000
	k.	Administrative Application System	
		Restricted Funds	2,500,000
	l.	Intramural Sports Field	
		Restricted Funds	750,000
	m.	Coach Bus	
		Restricted Funds	375,000
	n.	Color Press	
		Restricted Funds	235,000
	o.	NMR Spectrometer	
		Restricted Funds	385,000
	p.	Various Buildings (Guaranteed Energy Savings Project)	
	q.	New Residence Hall	
		Reauthorization	
	r.	Construct Parking Deck	
		Restricted Funds	9,100,000

	s.	Metropolitan Education and Training Center - Lease		
8.	University of Kentucky			
	a.	Early Childhood Education Lab		
		Restricted Funds	8,000,000	
	b.	Replace Oswald Building Roof		
		Restricted Funds	1,089,000	
	c.	Improve Storm Sewer Funkhouser		
		Restricted Funds	1,003,000	
	d.	Renovate Agriculture Building North Facade		
		Restricted Funds	3,820,000	
	e.	Renovate King South Building I		
		Restricted Funds		8,025,000
	f.	Upgrade Vivarium, I		
		Restricted Funds		4,000,000
	g.	Replace Central Fire Alarm System		
		Restricted Funds		3,000,000
	h.	Replace Central Facilities Management System		
		Restricted Funds		3,000,000
	i.	Replace Steam and Condensate Pipe		
		Restricted Funds		5,350,000
	j.	Improve Central Heating Plant		
		Restricted Funds		2,750,000
	k.	Replace Master Clock and Bell System		
		Restricted Funds		1,500,000
	l.	Replace High Voltage Wiring		
		Restricted Funds		441,000
	m.	Replace Three Elevators MIK Library South		
		Restricted Funds		742,000
	n.	Abate Mercury Lexington Campus - Life Safety		
		Restricted Funds	1,000,000	
	o.	Upgrade Fume Hoods -LC - Life Safety		
		Restricted Funds	7,015,000	
	p.	Upgrade Pharmacy Fume Hood I - Life Safety		
		Restricted Funds	4,300,000	
	q.	Abate Asbestos LC II - Life Safety		
		Restricted Funds	500,000	
	r.	Improve Indoor Air Quality - Phase I - Life Safety		
		Restricted Funds		500,000
	s.	Upgrade HVAC - CAER Ph. III - Life Safety		
		Restricted Funds		450,000
	t.	Improve Barker Hall - Life Safety		
		Restricted Funds		500,000
	u.	Improve Life Safety, Project Pool		
		Restricted Funds		3,708,000
	v.	Renovate Livestock Disease Diagnostics Laboratory		
		Restricted Funds		2,800,000
	w.	Improve Handicapped Access, Project Pool		
		Restricted Funds		1,908,000

x.	Improve Plant - Capital Renewal Pool		
	Restricted Funds	16,388,000	
y.	Construct Environmental Institute		
	Restricted Funds		12,604,000
z.	Renovate the COHR in the Dental Building		
	Restricted Funds		1,875,000
aa.	Install Chilled Water Pipe-Clg 2 to Pit		
	Restricted Funds		1,300,000
ab.	Install Cooling Secondary Pumping		
	Restricted Funds		2,250,000
ac.	Renovate Medical Center Library		
	Restricted Funds		2,000,000
ad.	Install Medical Center Chilled Water Loop		
	Restricted Funds		625,000
ae.	Expand Plant Capacity/Infrastructure		
	Restricted Funds	15,000,000	
af.	Renovate Education Space in Medical Science		
	Restricted Funds		2,300,000
ag.	Renovate Outpatient Clinic in Kentucky Clinic		
	Restricted Funds		2,000,000
ah.	Replace Cooling Plant Chillers		
	Restricted Funds		5,000,000
ai.	Install HVAC in Keeneland Hall		
	Restricted Funds		2,962,000
aj.	Renovate Cooperstown - Phase IVA		
	Restricted Funds		1,279,000
ak.	Install HVAC in Jewell Hall		
	Restricted Funds		1,290,000
al.	Install HVAC in Boyd Hall		
	Restricted Funds		1,715,000
am.	Renovate Labs in the Pharmacy Building		
	Restricted Funds		1,400,000
an.	Renovate Cooperstown - Phase IV		
	Restricted Funds		426,000
ao.	Renovate Parking Structure #1		
	Restricted Funds		7,714,000
ap.	Replace Holmes Elevator		
	Restricted Funds		585,000
aq.	Construct Parking Structure		
	Restricted Funds		16,280,000
ar.	Expand Patient Parking in Structure #3		
	Restricted Funds		7,000,000
as.	Install HVAC in Holmes Hall		
	Restricted Funds		1,700,000
at.	Acquire Land		
	Restricted Funds	15,000,000	
au.	Renovate Running Track		
	Restricted Funds	2,500,000	

av.	Renovate Research Labs in Medical Center, I		
	Restricted Funds		750,000
aw.	Fit-up Research Labs - Allied Health Building		
	Restricted Funds		7,000,000
ax.	Renovate Research Labs in Medical Center, II		
	Restricted Funds		900,000
ay.	Renovate Research Space-Nursing Building		
	Restricted Funds		540,000
az.	Upgrade Communication Infrastructure, II		
	Restricted Funds		450,000
ba.	Renovate Research Space Medical Center, I		
	Restricted Funds		800,000
	Federal Funds		700,000
	Total		1,500,000
bb.	Lease Purchase Campus Infrastructure Upgrade		
	Restricted Funds		3,500,000
bc.	Lease Purchase High Performance Research Computer		
	Restricted Funds	5,000,000	
bd.	Lease Purchase Computing Facility Uninterruptable Power Supply		
	Restricted Funds	400,000	
be.	Lease Purchase Large Scale Computing		
	Restricted Funds	3,500,000	
bf.	Lease Purchase Networked Printer		
	Restricted Funds	200,000	
bg.	Lease Purchase Pool		
	Restricted Funds		10,401,000
bh.	Lease Purchase Telephone Switch		
	Restricted Funds		3,000,000
bi.	Lease Purchase Video Switch		
	Restricted Funds	250,000	
bj.	3-D Scaling Device		
	Federal Funds		100,000
bk.	ABI Prism Sequence Detection System		
	Restricted Funds		100,000
bl.	Analytical Biosensor		
	Restricted Funds	275,000	
bm.	Area Detector Diffractometer		
	Restricted Funds	155,000	
	Federal Funds	155,000	
	Total	310,000	
bn.	Automated DNA Sequencer		
	Restricted Funds	130,000	
bo.	Behavioral Monitoring & Analysis System		
	Restricted Funds	150,000	
bp.	Campus Call Auto Dial		
	Restricted Funds	125,000	
bq.	Capillary Genetic Analyzers		
	Restricted Funds	800,000	

br.	Chain Reaction Analyzer		
	Restricted Funds	150,000	
bs.	Chromatograph Mass Spectrometer, I		
	Restricted Funds	250,000	
bt.	Chromatograph Mass Spectrometer, II		
	Restricted Funds	258,000	
bu.	Combination Metabolic Analyzer		
	Restricted Funds	123,000	
bv.	Compressed Video-Hazard		
	Restricted Funds	141,000	
bw.	Confocal Microscope		
	Restricted Funds	325,000	
bx.	Confocal Microscope		
	Restricted Funds	200,000	
by.	Database Testbed		
	Restricted Funds	225,000	
bz.	Digital Router		
	Restricted Funds	100,000	
ca.	DNA Chip Analysis System		
	Restricted Funds		160,000
cb.	DNA Microarray Chip Reader		
	Federal Funds		450,000
cc.	DNA Microarray Facility		
	Restricted Funds	300,000	
cd.	DNA Microarray System		
	Restricted Funds		285,000
ce.	DNA Sequencer		
	Restricted Funds	135,000	
cf.	DNA Sequencer		
	Restricted Funds	125,000	
cg.	DNA Sequencer, I		
	Restricted Funds	134,000	
ch.	DNA Sequencer, II		
	Restricted Funds	158,000	
ci.	DNA Sequencer/Genetic Analyzer		
	Restricted Funds	110,000	
cj.	DNA Synthesizer		
	Restricted Funds	103,000	
ck.	Electron Spin Resonance Instrument		
	Restricted Funds	100,000	
	Federal Funds	100,000	
	Total	200,000	
cl.	Electrophysiologic Analysis System		
	Restricted Funds	207,000	
cm.	Encapsulator		
	Restricted Funds	151,000	
cn.	Environmental Test System		
	Restricted Funds	125,000	

co.	Epi-Fluorescence Microscope		
	Restricted Funds	134,000	
cp.	ESCA-X-Ray Photoelectron Spectroscopy		
	Restricted Funds	400,000	
cq.	Flow Cytometer		
	Restricted Funds	108,000	
cr.	Flow Cytometry Lab Equipment		
	Restricted Funds	375,000	
cs.	Fluorescent Microscope & Image Analyzer		
	Restricted Funds	150,000	
ct.	Fluorescent (Luminescent) Imaging System		
	Restricted Funds	105,000	
cu.	Fluorescence Activated Cell Sorter		
	Restricted Funds	200,000	
cv.	Fluorescent Analyzer		
	Restricted Funds	109,000	
cw.	Fluorescent Activated Cell Sorter		
	Restricted Funds	237,000	
cx.	Fluorescent Cell Sorter		
	Restricted Funds	200,000	
cy.	Forage Harvester System		
	Restricted Funds	150,000	
cz.	Freeze-Thaw Apparatus		
	Restricted Funds		100,000
da.	Garbage Truck Front Loader		
	Restricted Funds	165,000	
db.	Gas Analyzer		
	Restricted Funds	100,000	
dc.	Gas Chromatograph Mass Spectrometer		
	Restricted Funds		101,000
dd.	Gas Chromatograph/MSD		
	Restricted Funds	110,000	
de.	Gas Chromatograph Mass Spectrograph		
	Restricted Funds		186,000
df.	Gene Chip Analysis Machine		
	Restricted Funds		250,000
dg.	Gene Chip Instrument System		
	Restricted Funds	450,000	
dh.	Genetic Analyzer		
	Restricted Funds		140,000
di.	GIS Teaching Lab		
	Restricted Funds	160,000	
dj.	GVG Video Switch		
	Restricted Funds	250,000	
dk.	High Performance Liquid Chromatography		
	Restricted Funds	131,000	
dl.	High Power CO2 Laser		
	Restricted Funds		250,000

dm.	High Pressure Liquid Chromatograph		
	Restricted Funds		100,000
	Federal Funds		100,000
	Total		200,000
dn.	High Resolution Optical Microscope		
	Restricted Funds	110,000	
do.	High Resolution Phosophor Imager		
	Restricted Funds	206,000	
dp.	High Temperature Optical Microscope		
	Restricted Funds		105,000
dq.	High-Speed Signal Processor		
	Federal Funds	150,000	
dr.	Holographic System/Image Analyzer		
	Restricted Funds		110,000
ds.	HPLC Mass Spectrophotometer		
	Restricted Funds	220,000	
dt.	Image Analysis System		
	Restricted Funds	206,000	
du.	Image Analyzer System		
	Restricted Funds	206,000	
dv.	Inductive Coupled Plasma Spectrometer		
	Restricted Funds		110,000
dw.	Inductive Coupled Plasma Unit		
	Restricted Funds	110,000	
dx.	Inductive Coupled Spectrometer System		
	Restricted Funds		120,000
dy.	Interaction Analyzer		
	Restricted Funds	150,000	
dz.	Inverted Microscope-Fluoroscope		
	Restricted Funds	155,000	
ea.	Inverted Scope		
	Restricted Funds		100,000
eb.	Laser Confocal Microscope		
	Restricted Funds	312,000	
ec.	Laser System		
	Restricted Funds	125,000	
	Federal Funds	125,000	
	Total	250,000	
ed.	LCT Flight Mass Spectrometer		
	Restricted Funds	220,000	
ee.	LIMS Bioinformatics Equipment		
	Federal Funds		136,000
ef.	Liquid Chromatograph		
	Restricted Funds		105,000
eg.	Liquid Chromotograph-Mass Spectrometer		
	Restricted Funds		320,000
eh.	Liquid Filling/Stoppering Line		
	Restricted Funds	351,000	

ei.	Mass Spectrometer		
	Restricted Funds		400,000
ej.	MB Ultracentrifuge		
	Restricted Funds	354,000	
ek.	MB/GT Phospho-Imager		
	Restricted Funds	128,000	
el.	Multiphoton Imaging System		
	Restricted Funds	505,000	
em.	Multiphoton Scanning Microscope		
	Restricted Funds	300,000	
en.	Multiunit Microbial Chamber		
	Restricted Funds	250,000	
eo.	NIR Spectrophotometer		
	Restricted Funds	125,000	
ep.	Open MRI Unit		
	Restricted Funds		1,000,000
eq.	Optical Disk Server		
	Restricted Funds		180,000
er.	Patient Classification Equipment		
	Restricted Funds		260,000
es.	Physiology Workstation		
	Restricted Funds	101,000	
et.	Protein Synthesizer .		
	Restricted Funds		206,000
eu.	Quadrapole Mass Spectrometer		
	Restricted Funds	360,000	
ev.	Rapid Scanning Monochrometer		
	Restricted Funds		130,000
ew.	Research Grade Light Microscope		
	Restricted Funds		103,000
ex.	Scanning Electron Microscope		
	Restricted Funds	175,000	
ey.	Semi-solid Manufacturing Equipment		
	Restricted Funds		211,000
ez.	Sequence Detection System		
	Restricted Funds		100,000
fa.	Spectograph for Oligonucleotide Analysis		
	Restricted Funds	250,000	
fb.	Studio Recording Equipment		
	Restricted Funds		113,000
fc.	Telemedicine Rural Health		
	Restricted Funds		416,000
fd.	Telemedicine Systems		
	Restricted Funds		600,000
fe.	Terminal Sterilizing Autoclave		
	Restricted Funds		221,000
ff.	Ultracentrifuge		
	Restricted Funds	117,000	

fg.	Virtual Environment Simulator		
	Restricted Funds		125,000
fh.	X-Ray Defractometer		
	Federal Funds		700,000
fi.	Upgrade Scanner System		
	Restricted Funds		500,000
fj.	Upgrade HVAC II - Hospital		
	Restricted Funds	3,500,000	
fk.	Renovate Roach Building 4th Floor - Hospital		
	Restricted Funds	3,990,000	
fl.	Consolidate Imaging Services - Hospital		
	Restricted Funds		3,675,000
fm.	Construct Storage/Distribution Center - Hospital		
	Restricted Funds		1,019,000
fn.	Construct Limited-stay Facility - Hospital		
	Restricted Funds		5,460,000
fo.	Renovate Kitchen I - Hospital		
	Restricted Funds	1,050,000	
fp.	Implement Land Use Plan III - Hospital		
	Restricted Funds	2,625,000	
fq.	Construct Parking Structure III - Hospital		
	Restricted Funds		7,350,000
fr.	Protect Environment II - Hospital		
	Restricted Funds	1,575,000	
fs.	Upgrade Transport Systems IV - Hospital		
	Restricted Funds	735,000	
ft.	Modify Nursing Unit XI - Hospital		
	Restricted Funds	1,100,000	
fu.	Modify Nursing Unit XII - Hospital		
	Restricted Funds		3,500,000
fv.	Upgrade Diagnostic Services XI - Hospital		
	Restricted Funds	1,500,000	
fw.	Construct Outpatient Services III - Hospital		
	Restricted Funds	4,700,000	
fx.	Upgrade Diagnostic Services XII - Hospital		
	Restricted Funds		1,000,000
fy.	Implement Land Use Plan IV - Hospital		
	Restricted Funds		2,500,000
fz.	Upgrade Transport Systems V - Hospital		
	Restricted Funds		800,000
ga.	Expand Data Systems III - Hospital		
	Restricted Funds	700,000	
gb.	Upgrade Support Services II - Hospital		
	Restricted Funds	1,172,000	
gc.	Upgrade Nutrition Services II - Hospital		
	Restricted Funds	1,000,000	
gd.	Upgrade Utility Systems VI - Hospital		
	Restricted Funds		1,500,000

ge.	Upgrade Building/Site IV - Hospital		
	Restricted Funds		800,000
gf.	Expand Parking II - Hospital		
	Restricted Funds	3,200,000	
gg.	Construct Patient Care Facility II - Hospital		
	Restricted Funds	7,638,000	
gh.	Construct Primary Care Center II - Hospital		
	Restricted Funds		10,172,000
gi.	Construct Building Connectors III - Hospital		
	Restricted Funds	3,000,000	
gj.	Construct Outpatient Diagnostic/Treatment Facility II - Hospital		
	Restricted Funds	12,672,000	
gk.	Construct Outpatient Care Facility II - Hospital		
	Restricted Funds		6,172,000
gl.	Upgrade Communication Services - Hospital		
	Restricted Funds		1,000,000
gm.	Construct Business Facility II - Hospital		
	Restricted Funds		9,000,000
gn.	Create Universal Nursing Unit - Hospital		
	Restricted Funds	1,000,000	
go.	Design Patient Bed Tower - Hospital		
	Restricted Funds	10,000,000	
gp.	Expand Surgical Services - Hospital		
	Restricted Funds	3,200,000	
gq.	Accelerator		
	Restricted Funds	1,600,000	
gr.	Angiography Unit		
	Restricted Funds	1,740,000	
gs.	Angiography Unit		
	Restricted Funds	1,276,000	
gt.	ATL Ultrasound		
	Restricted Funds	220,000	
gu.	Biplane Angiography		
	Restricted Funds	1,160,000	
gv.	Cardiac Catheterization Image Management System		
	Restricted Funds	957,000	
gw.	Cardiac Ultrasound		
	Restricted Funds	1,600,000	
gx.	C-Arm X-Ray Unit		
	Restricted Funds	350,000	
gy.	C-Arm X-Ray Unit		
	Restricted Funds	440,000	
gz.	C-Arm X-Ray Unit		
	Restricted Funds	275,000	
ha.	Clinical System Enterprise		
	Restricted Funds	5,800,000	
hb.	Computing Infrastructure Update		
	Restricted Funds	2,500,000	

hc.	CR PAC Server	
	Restricted Funds	275,000
hd.	CT Scanner	
	Restricted Funds	1,914,000
he.	CT Scanners	
	Restricted Funds	3,480,000
hf.	CT Simulator	
	Restricted Funds	1,160,000
hg.	CT Simulator	
	Restricted Funds	1,200,000
hh.	Data Storage Facility	
	Restricted Funds	750,000
hi.	Diagnostic Radiology Unit	
	Restricted Funds	330,000
hj.	Digital Medical Record Expansion	
	Restricted Funds	4,640,000
hk.	Digital Enhancement	
	Restricted Funds	1,085,000
hl.	Digital Imaging	
	Restricted Funds	957,000
hm.	Digital Orbitor Camera	
	Restricted Funds	275,000
hn.	Digital Radiology	
	Restricted Funds	4,060,000
ho.	Digital Radiology	
	Restricted Funds	1,020,000
hp.	EKG Unit	
	Restricted Funds	400,000
hq.	EKG Unit	
	Restricted Funds	440,000
hr.	Electrophysiology Lab	
	Restricted Funds	5,800,000
hs.	EMG Unit	
	Restricted Funds	250,000
ht.	Endoscopic Ultrasound	
	Restricted Funds	440,000
hu.	Endoscopic Video System	
	Restricted Funds	300,000
hv.	Endoscopic Video Ultrasound	
	Restricted Funds	275,000
hw.	Filmless System	
	Restricted Funds	150,000
hx.	Fluoroscopy Unit	
	Restricted Funds	550,000
hy.	General Radiology/Fluoroscopic Unit	
	Restricted Funds	550,000
hz.	General Radiology/Fluoroscopic Unit	
	Restricted Funds	500,000

ia.	Intracardiac Laser	
	Restricted Funds	500,000
ib.	Intracardiac Laser	
	Restricted Funds	550,000
ic.	Intraoperative Radiation Therapy	
	Restricted Funds	1,300,000
id.	Laboratory Analyzer	
	Restricted Funds	500,000
ie.	Linear Accelerator	
	Restricted Funds	2,050,000
if.	Managed Care Enterprise	
	Restricted Funds	1,160,000
ig.	Minimally Invasive Room	
	Restricted Funds	1,700,000
ih.	Mobile CT	
	Restricted Funds	1,100,000
ii.	Mobile CT	
	Restricted Funds	1,000,000
ij.	Mobile Fluoroscopic Unit	
	Restricted Funds	250,000
ik.	Mobile Radiology Unit	
	Restricted Funds	250,000
il.	MRI Upgrade	
	Restricted Funds	500,000
im.	Nuclear Medicine Camera	
	Restricted Funds	1,000,000
in.	OB Ultrasound	
	Restricted Funds	350,000
io.	OR Perioperative IS Document Systems Upgrade	
	Restricted Funds	150,000
ip.	Patient System Enterprise	
	Restricted Funds	4,640,000
iq.	Portal Imaging System	
	Restricted Funds	200,000
ir.	Portal Imaging System	
	Restricted Funds	250,000
is.	QuadRIS Upgrade	
	Restricted Funds	300,000
it.	Rad. Med. Software/System	
	Restricted Funds	350,000
iu.	Radiation Therapy Unit Upgrade	
	Restricted Funds	400,000
iv.	Radiographic Fluoroscopic Unit	
	Restricted Funds	200,000
iw.	Radiographic Fluoroscopic Unit	
	Restricted Funds	150,000
ix.	Radiographic Unit	
	Restricted Funds	400,000

iy.	Radiographic Unit	
	Restricted Funds	350,000
iz.	Radiology Ultrasound	
	Restricted Funds	440,000
ja.	SPECT System	
	Restricted Funds	1,000,000
jb.	Steam Autoclave	
	Restricted Funds	450,000
jc.	Sterrad Sterilizer	
	Restricted Funds	450,000
jd.	Surgical C-Arm (ISS) System	
	Restricted Funds	650,000
je.	Surgical Laser	
	Restricted Funds	500,000
jf.	Surgical Microscope	
	Restricted Funds	500,000
jg.	Teleradiology	
	Restricted Funds	200,000
jh.	Ultrasound Image Management	
	Restricted Funds	800,000
ji.	Upgrade - HIS Computing Facility	
	Restricted Funds	2,900,000
jj.	Upgrade for Servers	
	Restricted Funds	800,000
jk.	Vascular Ultrasound	
	Restricted Funds	300,000
jl.	Vascular Ultrasound	
	Restricted Funds	900,000
jm.	Washer	
	Restricted Funds	350,000
jn.	Various Buildings	
	(Guaranteed Energy Savings Project)	
jo.	Center for Rural Health	
	Reauthorization ($10,100,000 - Bond Funds)	
	Federal Funds - Additional	2,000,000
jp.	College of Medicine - Lease	
jq.	Medical Center Contract Sponsored Programs - Lease	
jr.	Medical Center Patient Facility - Lease	
js.	Medical Center Research Grants Projects - Lease	
jt.	Pharmacy Contracted Programs - Lease	
ju.	Center for Rural Health - Lease	
jv.	Kentucky Utilities Building - Lease	
jw.	Agricultural Plant Science Facility	
	Reauthorization	
	Restricted Funds - Additional	1,300,000
jx.	Business and Economic Complex	
	Restricted Funds	1,000,000

9. University of Louisville

a.	Expand - Research Resources Center	
	Restricted Funds	2,596,000
	Other Funds	7,787,000
	Total	10,383,000
b.	Property Acquisition	
	Restricted Funds	1,300,000
c.	Construct - Boathouse for Women's Rowing	
	Other Funds	2,488,000
d.	Field Turf - Practice Field Facility	
	Other Funds	750,000
e.	Expand-Oppenheimer Hall for Social Work	
	Other Funds	5,450,000
f.	Expand - Cardinal Arena in Student Activities Center	
	Other Funds	4,000,000
g.	Renovate - Dental Clinic and Sterilization	
	Other Funds	3,637,000
h.	Renovate - K-Wing 2nd and 4th Floors	
	Restricted Funds	1,040,000
i.	Expand - Ekstrom Library - New Wing	
	Federal Funds	14,000,000
j.	Construct - Residence Hall - 400 Beds, Phase I	
	Other Funds	19,718,000
k.	Parking Spaces - Health Sciences	
	Restricted Funds	825,000
l.	Renovate - MDR Building, Phase IV	
	Restricted Funds	2,530,000
m.	Renovate - Stoddard Johnston - Married Students	
	Other Funds	5,829,000
n.	Plasmon Resonance Instrument	
	Restricted Funds	250,000
o.	High Resolution Mass Spectrometer	
	Federal Funds	1,150,000
p.	Flow Fluorescence Activated Cell	
	Restricted Funds	130,000
q.	Microcalorimeter	
	Restricted Funds	140,000
r.	Confocal Microscope	
	Restricted Funds	280,000
s.	Neuro Scan ESI - 128:128 Channel	
	Restricted Funds	100,000
	Federal Funds	40,000
	Total	140,000
t.	Laser Microfabrication Lab	
	Restricted Funds	275,000
	Federal Funds	250,000
	Total	525,000
u.	X-Ray Diffraction Module	
	Restricted Funds	500,000

	Federal Funds	250,000
	Total	750,000
v.	Particle Imaging Velocimetry (PIV)	
	Restricted Funds	167,000
w.	Confocal Laser Scanning Microscope	
	Restricted Funds	400,000
x.	CNC Grinding Machine	
	Restricted Funds	164,000
y.	Load Application System	
	Restricted Funds	240,000
z.	Axis (5) CNC Machining	
	Restricted Funds	150,000
aa.	Color Digital Output Engine	
	Restricted Funds	700,000
ab.	High Volume Output Devices Duplicator	
	Restricted Funds	876,000
ac.	High Speed Graphics Imaging System	
	Restricted Funds	200,000
ad.	Digital Communication Network	
	Restricted Funds	2,000,000
ae.	Network Switching System	
	Restricted Funds	2,000,000
af.	Electronic Research Information System	
	Restricted Funds	2,000,000
ag.	Computer Workstations for Libraries	
	Restricted Funds	466,000
ah.	High Availability Enterprise System	
	Restricted Funds	1,430,000
ai.	Client Server System - File Server	
	Restricted Funds	1,100,000
aj.	Computer Processing System	
	Restricted Funds	2,000,000
ak.	Engineering Scientific Processor	
	Restricted Funds	1,100,000
al.	Supercomputing System	
	Restricted Funds	1,500,000
am.	Upgrade Supercomputer	
	Restricted Funds	400,000
an.	Autonomous Mobility Platform	
	Restricted Funds	400,000
	Federal Funds	60,000
	Total	460,000
ao.	Concave Reality Unit	
	Restricted Funds	250,000
ap.	High Energy Physics Data Analysis	
	Restricted Funds	175,000
	Federal Funds	175,000
	Total	350,000

aq.	Gel Blot Image Analysis System	
	Restricted Funds	145,000
ar.	High Resolution Hybrid Mass Spectrometer	
	Restricted Funds	500,000
	Federal Funds	100,000
	Total	600,000
as.	Digital Micro-Luminography System	
	Restricted Funds	120,000
at.	Electronic Darkroom	
	Restricted Funds	193,000
au.	Laser Desorption/Ionization Mass Spectrometer	
	Restricted Funds	200,000
av.	Molecular Tagging Velocimetry	
	Restricted Funds	245,000
aw.	Peak 3D Equipment	
	Restricted Funds	120,000
ax.	Deposition Attachment - UHV Facility	
	Restricted Funds	500,000
ay.	Electric Injection Molding Machine	
	Restricted Funds	110,000
az.	Materials Testing System	
	Restricted Funds	218,000
ba.	Specialized Central Processing Unit	
	Restricted Funds	500,000
bb.	Protein Chip Analyzer	
	Restricted Funds	200,000
bc.	Nucleic Acid Microchip Analyzer	
	Restricted Funds	200,000
bd.	Analytical Ultracentrifuge	
	Restricted Funds	145,000
be.	High Resolution SEM	
	Restricted Funds	360,000
bf.	Intermediate Voltage Transmission	
	Restricted Funds	550,000
bg.	Micro-Computed Tomography Imager	
	Restricted Funds	480,000
bh.	Automated Synthesizer	
	Restricted Funds	95,000
	Federal Funds	95,000
	Total	190,000
bi.	EPR Spectrometer Update	
	Restricted Funds	60,000
	Federal Funds	65,000
	Total	125,000
bj.	Virtual Reality Display System	
	Restricted Funds	90,000
	Federal Funds	90,000
	Total	180,000

bk.	Various Buildings	
	(Guaranteed Energy Savings Project)	
bl.	Cardinal Park - Natatorium	
	Restricted Funds	7,335,000
	Other Funds	12,489,000
	Total	19,824,000
bm.	Expand HSC Parking Garage - Two Additional Floors	
	Restricted Funds	4,794,000
bn.	Baseball Stadium	
	Other Funds	5,900,000
bo.	Cardinals' Nest - Housing	
	Other Funds	6,500,000
bp.	Land Purchase and construction of Floyd Street Parking Lot	
	Other Funds	2,290,000
bq.	UL and UK Fiber Optics Purchase	
	Restricted Funds	4,650,000
br.	Bio - Medical Research Building - Phase III Planning	
	Restricted Funds	4,835,100
10.	Western Kentucky University	
a.	A. A. #1 (Diddle Arena) Renovation	
	Restricted Funds (32,500,000- FY 2002)	
b.	Various Buildings	
	(Guaranteed Energy Savings Project)	
	(FY 2002)	
c.	Capital Renewal and Deferred Maintenance Pool	
	Restricted Funds	10,000,000
d.	Electrical Distribution Phase IV and V Renovation	
	Restricted Funds	2,449,000
e.	Digital Television Transmission System	
	Restricted Funds	1,993,000
	Federal Funds	1,328,000
	Total	3,321,000
f.	Renovate/Construct Telephone Infrastructure	
	Restricted Funds	3,000,000
g.	Van Meter Hall Renovation - Design	
	Restricted Funds	688,000
h.	Central Heat Plant Renovation - Phase I	
	Restricted Funds	1,273,000
i.	Garrett Conference Center Renovation - Design	
	Restricted Funds	858,000
j.	Server	
	Restricted Funds	880,000
k.	Video Server	
	Restricted Funds	800,000
l.	Downing University Center Renovation	
	Restricted Funds	11,320,000
m.	Land Acquisition	
	Restricted Funds	400,000

11.	Kentucky Community and Technical College System		
a.	KCTCS System Office - Lease		
b.	Capital Renewal and Deferred Maintenance Pool		
	Restricted Funds	13,444,000	
c.	Upgrade for ADA/Fire Safety - Somerset Community College		
	Restricted Funds	4,585,000	
d.	Master Plan Development and Upgrade Pool		
	Restricted Funds	650,000	
e.	HVAC System Renovation - Daviess Co. Campus		
	Restricted Funds	2,440,000	
f.	Install FiberOptics, Allied Health Building		
	Restricted Funds	558,000	
g.	Campus HVAC System Renovation - Somerset Community College		
	Restricted Funds	2,173,000	
h.	Replace HVAC System, 77 Addit, Laurel TC		
	Restricted Funds	1,280,000	
i.	Enclose Courtyard/Roof - Falkenstine Hall		
	Restricted Funds	1,359,000	
j.	Computer Interfaced Distillation Column		
	Restricted Funds	114,000	
k.	Helicopter for Aircraft Tech Program - JTC		
	Restricted Funds	271,000	
l.	New Telephone System Owensboro - CC & TC		
	Restricted Funds	340,000	
m.	Multi-engine Turbine Power Aircraft		
	Restricted Funds	300,000	
n.	Diagnostic Medical Sonography Unit		
	Restricted Funds	110,000	
o.	Various Buildings (Guaranteed Energy Savings Project)		
p.	Maysville Community College		
	Emergency Repair, Maintenance, and Replacement Fund (3,100,000 - FY 2001-2002)		
q.	Henderson Community College - Lease		
r.	Jefferson Community College - Lease		

M. PUBLIC PROTECTION AND REGULATION CABINET

Budget Unit		2002-03	2003-04
1.	Department of Insurance		
a.	Franklin County - Lease		
2.	Public Advocacy		
a.	Franklin County - Lease		
3.	Housing, Buildings and Construction		
a.	Franklin County - Lease		

N. REVENUE

Budget Unit		2002-03	2003-04
1.	Office of the Secretary		
a.	Franklin County - Lease		

b. Franklin County - Lease

c. Franklin County - Lease

O. TOURISM DEVELOPMENT CABINET

The total non-General Fund project costs shown do not reflect additions to the operating budget appropriations.

Budget Unit	2001-02	2002-03	2003-04
1. Kentucky State Fair Board			
a. Purchase DOT Building			
Restricted Funds		500,000	
b. Replace Roofs			
Restricted Funds		1,000,000	1,800,000
c. Maintenance Pool			
Restricted Funds		1,500,000	1,500,000
d. Teleconference Center - KICC			
Reauthorization and Reallocation (250,000 - Restricted Funds)			

The above Restricted Funds as appropriated in accordance with 2000 Ky. Acts Ch. 549, Part II, Sec. O(2)(c), are reauthorized and reallocated to provide for the completion of the Kentucky International Convention Center Teleconferencing Center.

Budget Unit	2001-02	2002-03	2003-04
2. Department of Fish and Wildlife Resources			
a. Land Acquisition Pool			
Restricted Funds		500,000	500,000
b. Maintenance Pool			
Restricted Funds		300,000	300,000
3. Kentucky Horse Park			
a. Maintenance Pool			
Investment Income		475,000	475,000
b. Painting, Fencing, and Infrastructure Repair			
Investment Income		225,000	
c. Design and Infrastructure of a New Indoor Arena and Campground Expansion			
General Fund			400,000
4. Department of Parks			
a. Construct Water Plant - Natural Bridge			
Emergency Repair, Maintenance, and Replacement Fund		1,000,000	
b. Maintenance Pool			
Investment Income		5,100,000	4,200,000
c. Campground Electrical/Life Safety Upgrade and Reconstruction			
Investment Income		2,600,000	
d. Construct Wave Barrier - Jenny Wiley			
Reauthorization			
e. Kincaid Lake Golf Course			
Reauthorization			
f. Ben Hawes State Park Project/Various Improvements			
Reauthorization and Reallocation			

P. TRANSPORTATION CABINET

Budget Unit	2002-03	2003-04
1. General Administration and Support		
a. Construct Martin County Maintenance Facility and Salt Dome		
Road Fund		845,000

b. Replace HVAC System - Franklin County Materials Lab		
Road Fund		600,000
c. Construct and Repair Various Salt Storage Structures		
Road Fund		813,000
d. Asbestos Survey/Abatement/Air Monitoring		
Road Fund		100,000
e. Building Renovation and Emergency Repairs		
Road Fund	840,000	
f. Conduct Paving and Landscaping		
Road Fund		600,000
g. Wastewater Treatment/Water Projects		
Road Fund		200,000
h. HVAC Maintenance and Repair		
Road Fund		800,000
i. Hydraulic Hoists-Heavy Equipment		
Road Fund		300,000
j. Purchase of High Speed Duplicators (Two)		
Road Fund		600,000
k. Purchase Electrical Digital Surveying System		
Road Fund		150,000
l. Purchase Concrete and Geotech Testing System		
Road Fund		146,000
m. Purchase of Core Drill		
Road Fund		210,000
n. Various Parks Roads		
Road Fund	1,500,000	1,500,000
2. Highways		
a. TRNSPRT System		
Road Fund	3,500,000	
b. Statewide Transportation Operations Center		
Federal Funds		5,680,000
Road Fund		1,420,000
Total		7,100,000

Q. WORKFORCE DEVELOPMENT CABINET

Budget Unit	2002-03	2003-04
1. General Administration and Program Support		
a. Implement Guaranteed Energy Savings (Guaranteed Energy Performance Contract)		
b. Implement ADA Barrier Removal Pool		
Investment Income	125,000	
c. Maintenance Pool		
Investment Income	425,000	425,000
2. Vocational Rehabilitation		
a. Construct New Sewage Treatment Plant-Perkins Rehabitation Center		
Capital Construction and Equipment Purchase Contingency Fund	265,000	
b. Franklin County - Lease		
c. Fayette County - Lease		

3. Employment Services

a. DES Facility Renovation Pool

Reauthorization

The General Assembly authorizes the Department to develop and implement a facility replacement and renovation program to improve the quality of Workforce Development Cabinet facilities used by the Department and its clients, and to reduce departmental reliance on lease/rental properties. The Department is directed to coordinate this program with the Secretary of the Finance and Administration Cabinet. Proceeds acquired from the sale, transfer, or other disposition of existing facilities may be expended toward the purchase, construction, renovation, and equipping and furnishing of replacement facilities. Expenditures authorized by this provision are limited to the use of funds solely derived from the sale of Cabinet-owned facilities, which equity rights are shared between both the state and the federal government. Any project estimated to cost over $400,000 shall be reported to the Capital Projects and Bond Oversight Committee by the Secretary of the Finance and Administration Cabinet.

R. COAL SEVERANCE TAX PROJECTS

Notwithstanding KRS 42.4588(2) and (4), the following projects are authorized and appropriated from Local Government Economic Development Fund moneys from the respective single county fund pursuant to KRS 42.4592 for public purposes in the following coal-producing counties in the manner and amounts enumerated. These projects are determined by the General Assembly to be important to the furtherance of the public policy objectives and economic development purposes for which the Local Government Economic Development Program was established. The amounts appropriated are estimates. Actual expenditures and encumbrances shall be limited to the actual receipts realized and available in the respective single county fund. These amounts are comprised of estimated receipts for fiscal year 2002-2003 and fiscal year 2003-2004 in combination with prior unobligated balances in the respective single county funds. To the extent that a county that is authorized to proceed with a project enumerated below receives more single county Local Government Economic Development Fund moneys than are appropriated in this Act, the county may direct those funds to offset a cost overrun on any of the projects enumerated below upon approval of the Commissioner of the Coal County Development Office.

(1) GOVERNMENT OPERATIONS

a.	Budget Unit Local Government	2002-03	2003-04
Bell County			
1.	Bell County Public Library - Operations		
	Restricted Funds	10,000	
2.	Frakes Volunteer Fire Department - Operations		
	Restricted Funds	25,000	
3.	Bell County Little league - Improvements		
	Restricted Funds	30,000	
4.	Bell County Animal Shelter - Improvements		
	Restricted Funds	15,000	
5.	Bell County Veterans Park - Improvements		
	Restricted Funds	10,000	
6.	Bell County - Middlesboro History Museum - Operations		
	Restricted Funds	15,000	
7.	Bell County - Middlesboro Rescue Squad - Operations		
	Restricted Funds	25,000	
8.	Bell County - Middlesboro Airport - Operations		
	Restricted Funds	50,000	
9.	P-38 Museum at Middlesboro - Operations		
	Restricted Funds	150,000	
10.	Bell County Volunteer Fire Department - Lone Jack Co. for Repairs		

	Restricted Funds	25,000	
11.	Bell County Volunteer Fire Department - Generator at Central		
	Restricted Funds	25,000	
12.	Bell County Volunteer Fire Department - Operations for all Companies		
	Restricted Funds	50,000	
13.	Bell County Jail - Repairs		
	Restricted Funds	50,000	
14.	Bell County Health Department - Operations		
	Restricted Funds	15,000	
15.	Bell County Interfaith - Operations		
	Restricted Funds	10,000	
16.	Bell County Senior Citizens - For Their Share of Pineville City School Wellness Center		
	Restricted Funds	50,000	
17.	Bell County Senior Citizens - Operations		
	Restricted Funds	45,000	
18.	Middlesboro Little League/Senior League - T-ball Improvements		
	Restricted Funds	30,000	
19.	Pineville School - Divided Evenly Among Each Site Based Council		
	Restricted Funds	37,000	
20.	Bell County Schools - Divided Evenly Among Each Site Based Council		
	Restricted Funds	37,000	
21.	Middlesboro City Schools - Divided Evenly Among Each Site Based Council		
	Restricted Funds	37,000	
22.	Bell County Fiscal Court - Ambulance and Equipment		
	Restricted Funds	75,000	
23.	City of Middlesboro - Various Projects		
	Restricted Funds	400,000	
24.	City of Pineville - Various Projects		
	Restricted Funds	100,000	
25.	Bell County Fiscal Court - Water and Other Projects		
	Restricted Funds		1,100,000
Boyd County			
26.	Boyd County Board of Education - Cannonsburg Elementary School - Playground Equipment and Improvements		
	Restricted Funds	10,000	

27.	Ashland American Little League - Equipment and Facility Improvements		
	Restricted Funds	10,000	
28.	Boyd County National Little League - Equipment and Facility Improvements		
	Restricted Funds	10,000	
29.	Boyd County AABC League - Equipment and Facility Improvements		
	Restricted Funds	10,000	
30.	City of Catlettsburg - Downtown Development		
	Restricted Funds	15,000	
31.	Ashland Alliance - Various Economic Development Efforts and Operations		
	Restricted Funds	10,000	
32.	Boyd County Fiscal Court - Various Parks, Fairs, Recreation and Economic Development Efforts		
	Restricted Funds	35,000	
33.	Boyd County Fiscal Court - Various Parks, Fairs, Recreation and Economic Development Efforts		
	Restricted Funds		37,870
34.	Ashland Alliance - Various Economic Development Efforts and Operations		
	Restricted Funds		10,000
35.	Boyd County Fiscal Court - Water and Sewer Projects		
	Restricted Funds	100,000	100,000
36.	City of Ashland - Water Treatment Plant Improvements		
	Restricted Funds	48,139	
Breathitt County			
37.	Breathitt County Water District - Water Line Extensions		
	Restricted Funds	500,000	781,804
38.	City of Jackson - Water Treatment Plant Expansions		
	Restricted Funds	600,000	
Carter County			
39.	Carter County - Fire Departments		
	Restricted Funds		60,000
40.	Grayson Utility Commission - Water Treatment Plant		
	Restricted Funds	50,000	107,018
41.	Carter County School System - Soccer Fields Property Acquisition		
	Restricted Funds	25,000	

42.	Carter County Fair Board - Property Acquisition for Permanent Fair Location		
	Restricted Funds	25,000	
43.	City of Grayson - City Pool Repair and Maintenance/Operations		
	Restricted Funds	25,000	
44.	Grayson Little League Grounds		
	Restricted Funds	5,000	
45.	Olive Hill Little League		
	Restricted Funds	5,000	
46.	"Someday Outdoor Drama" Production Allowance		
	Restricted Funds	5,000	
47.	Grahn Community Center Production Allowance		
	Restricted Funds	10,000	
48.	Carter County Fiscal Court Recreational/Park Purposes and Property Acquisition		
	Restricted Funds	33,916	
49.	Mt. Savage Furnace Historic Marker Replacement		
	Restricted Funds	1,600	
50.	Rattlesnake Ridge Water District - Water Line Extension		
	Restricted Funds	150,000	
Clay County			
51.	City of Manchester - County-wide Water Line Extension		
	Restricted Funds	392,894	246,400
52.	City of Manchester - Clay County Fiscal Court - Sewer Line and Treatment Plant Upgrade		
	Restricted Funds	300,000	
53.	City of Pineville - Red Bird Mission Water Line Project		
	Restricted Funds	30,000	
54.	North Manchester Water Association Water Storage Tank		
	Restricted Funds	230,000	
Daviess County			
55.	Daviess County - Fire Station		
	Restricted Funds	240,000	
Floyd County			
56.	City of Prestonsburg - Mountain Top Economic Development		
	Restricted Funds	500,000	
57.	Floyd County Fiscal Court - Fire Protection		
	Restricted Funds	100,000	

58.	Southern Water and Sewer District - Water Line Extensions at Beaver Creek		
	Restricted Funds	441,419	
59.	Southern Water and Sewer District - Water Line Extensions in Southern Floyd County		
	Restricted Funds	1,000,000	
Greenup County			
60.	City of Flatwoods - Senior Citizens Center		
	Restricted Funds	8,000	
61.	City of Greenup-Water System		
	Restricted Funds	81,932	31,622
62.	City of Russell - Sewer System		
	Restricted Funds	4,000	
63.	City of Worthington - Water System Interconnection		
	Restricted Funds		20,000
64.	City of Wurtland - Water Storage Tank		
	Restricted Funds	11,000	
65.	Greenup County - Fire Departments		
	Restricted Funds	24,777	
66.	City of Greenup - Water System Phase VII Expansion Project		
	Restricted Funds	14,155	99,399
67.	City of Worthington - City of Raceland - Water System Interconnection		
	Restricted Funds	20,000	
Hancock County			
68.	Hancock County Fiscal Court - Lewisport Industrial Park Water Projects		
	Restricted Funds	91,219	
Harlan County			
69.	Black Mountain Utility District - Putney - Totz/Water Line Extension		
	Restricted Funds	1,250,000	
70.	Black Mountain Utility District - Water Line Extension to Molus/Treatment Plant		
	Restricted Funds	250,000	275,000
71.	City of Evarts - Line Extension with Black Mountain Utility District		
	Restricted Funds	800,000	
72.	City of Harlan - Water Treatment Plant		
	Restricted Funds	500,000	
73.	City of Harlan - Fire Station South		

	Restricted Funds	100,000	
74.	City of Loyall - Equipment and Repair for Fire, Police, and Sewer Departments		
	Restricted Funds		91,000
75.	City of Lynch - Water Line Upgrade		
	Restricted Funds	300,000	316,027
76.	City of Wallins Creek - City Equipment Purchase		
	Restricted Funds		20,000
77.	Green Hills Water District - Water Tank Construction		
	Restricted Funds	125,000	
78.	Green Hills Water District - Water Line to Little Shepard Trail		
	Restricted Funds	35,500	125,000
79.	Harlan County Fiscal Court - Southeast Community College-Paramedic Training		
	Restricted Funds	50,000	50,000
80.	Harlan County PVA - Digital/Mapping		
	Restricted Funds	35,000	
81.	Harlan County/Tri-Cities - Coordination for Community Development		
	Restricted Funds	35,000	35,000
82.	Southeast Community College Foundation - Mine Museum, Golf Course, and Mine Tour		
	Restricted Funds	250,000	250,000
83.	Southeast Community College Foundation - Underground Mine Tour		
	Restricted Funds	500,000	
Henderson County			
84.	Henderson County Water District - Fulton-Yates/Mt. Zion Church Road Loop Water Line		
	Restricted Funds	125,000	
85.	Henderson County Water District - Various Extensions		
	Restricted Funds	230,000	
86.	Henderson County Water District - Posey-Ball Road Water Line		
	Restricted Funds	121,381	
87.	Henderson County Water District - Tank Repair		
	Restricted Funds	350,000	
88.	Henderson County Water District - Water Line Extension to Kings Mill Road, Birk City Road, and Green		

	River Road		
	Restricted Funds	86,355	
89.	Henderson Water Utility - Interconnection with Evansville Water		
	Restricted Funds	100,000	
Hopkins County			
90.	Hopkins County Fiscal Court - Adult Education Initiative		
	Restricted Funds	200,000	
91.	Hopkins Volunteer Fire Departments - ($10,000 each to Anton, Charleston, Dawson Springs, Earlington, Grapevine, Hanson, Manitou, Mortons Gap, Nebo, Nortonville, Richland, St. Charles, South Hopkins, and White Plains to Purchase of Fire Fighting Equipment)		
	Restricted Funds	140,000	
Jackson County			
92.	Jackson County Fiscal Court - Buncomb Road Water Line		
	Restricted Funds	146,242	
93.	Jackson County Water Association - Water Supply Lake		
	Restricted Funds	100,000	88,256
Johnson County			
94.	City of Paintsville - Business/Technical/Incubator		
	Restricted Funds	300,000	
95.	Johnson County Fiscal Court - Fire Departments		
	Restricted Funds	35,000	35,000
96.	Paintsville Utility Commission - New Water Treatment Plant		
	Restricted Funds	20,757	
97.	Paintsville Utility Commission - Extensions in Scattered Locations		
	Restricted Funds	344,701	268,734
Knott County			
98.	Knott County Artisans Center - Construction		
	Restricted Funds	835,987	800,000
99.	Knott County Fiscal Court - Jail		
	Restricted Funds	600,000	600,000
100.	Knott County Fiscal Court - Fire Departments		
	Restricted Funds	50,000	50,000
101.	Knott County Fiscal Court - Beaver Park Expansions		

	Restricted Funds	100,000	
102.	Knott County Fiscal Court - Youth Development Center		
	Restricted Funds	100,000	
103.	Knott County/City of Hazard - Water Line Extension		
	Restricted Funds	661,746	
104.	Southern Water and Sewer District - Water Line Extension on Right Beaver Creek		
	Restricted Funds	3,348,903	674,090
105.	Kentucky School of Craft - KCTCS - Operating		
	Restricted Funds		500,000
Knox County			
106.	Barbourville Utility Commission - Water Tank and Pump Station HWY 229		
	Restricted Funds	175,000	
107.	Cranes Nest Waterlines		
	Restricted Funds	10,000	
108.	Scott Hollow Waterlines		
	Restricted Funds	5,000	
109.	Keck and Middle Fork of Richland Waterlines		
	Restricted Funds	60,000	
110.	Greenbriar Waterlines		
	Restricted Funds	15,000	
111.	Knox County Fiscal Court - Big Creek Water Tank - HWY 718		
	Restricted Funds		110,000
112.	Knox County Fiscal Court - Alex Creek Waterlines		
	Restricted Funds		15,000
113.	Knox County Fiscal Court - Salt Gum Waterlines		
	Restricted Funds		10,000
114.	Knox County Fiscal Court - Turkey Fork Waterlines		
	Restricted Funds		15,000
115.	Knox County Fiscal Court - Jeffs Creek Waterlines		
	Restricted Funds		10,000
116.	Knox County Fiscal Court - Houston Broughton Road Waterlines		
	Restricted Funds		10,000
117.	Knox County Fiscal Court - Mills Creek Waterlines		
	Restricted Funds		10,000

118.	Knox County Fiscal Court - Coles Branch Waterlines		
	Restricted Funds		10,000
119.	Knox County Fiscal Court - Don Mills Road Waterlines		
	Restricted Funds		5,000
120.	Knox County Fiscal Court - Dora Clark Branch Waterlines		
	Restricted Funds		12,000
121.	Knox County Fiscal Court - Hinkel Branch Waterlines		
	Restricted Funds		5,000
122.	Knox County Fiscal Court - Rob Smith Road Waterlines		
	Restricted Funds		3,000
123.	Knox County Fiscal Court - Brices Creek Waterlines		
	Restricted Funds		17,000
124.	Knox County Fiscal Court - Hales Creek Waterlines		
	Restricted Funds		10,000
125.	Knox County Fiscal Court - Lick Branch Waterlines		
	Restricted Funds		3,000
126.	Knox County Fiscal Court - Ely Hollow Waterlines		
	Restricted Funds		47,000
127.	Knox County Fiscal Court - Waterlines		
	Restricted Funds		15,445
128.	Southeast Ky. Rehabilitation Industries (SEKRI) - Renovation of Warner Building		
	Restricted Funds	330,189	
Laurel County			
129.	Wood Creek Water District - Water Tank and Pump Station		
	Restricted Funds	105,943	111,800
Lawrence County			
130.	Big Sandy Water District - Interconnection		
	Restricted Funds		196,540
131.	City of Louisa Water Project - Water System Improvements		
	Restricted Funds	391,520	
132.	Lawrence County Board of Education - Community Wellness Center		
	Restricted Funds	50,000	50,000
133.	Lawrence County Fiscal Court -		

	Community Center		
	Restricted Funds	200,000	
134.	Lawrence County Volunteer Fire Departments		
	Restricted Funds	10,078	45,922
Lee County			
135.	City of Beattyville - Water Line Extension		
	Restricted Funds	669,775	
Leslie County			
136.	Leslie County Water District - Water Line Extension		
	Restricted Funds	350,000	
137.	Leslie County Water District - Water Line Extension		
	Restricted Funds	659,933	
138.	Leslie County Water District - Water Line Extension		
	Restricted Funds	250,000	
139.	Leslie County Water District - Water Line Extension		
	Restricted Funds	650,000	
140.	Leslie County Water District - Water Line Extension and System Telemetry		
	Restricted Funds	1,030,000	
141.	Leslie County Water District - Water Line Extension		
	Restricted Funds	500,000	
Letcher County			
142.	City of Fleming-Neon - Water Line Extension		
	Restricted Funds	590,000	
143.	City of Jenkins - City Hall Expansion		
	Restricted Funds	85,346	74,654
144.	City of Jenkins - Water Line Extension		
	Restricted Funds	223,466	
145.	City of Jenkins - Downtown Revitalization		
	Restricted Funds	120,000	
146.	City of Jenkins - Mountain Water District - Water Line Extension		
	Restricted Funds	450,000	
147.	City of Whitesburg - Water Line Extension		
	Restricted Funds	1,115,073	331,214
148.	Letcher County Board of Education - Fleming - Neon High School		
	Restricted Funds	100,000	
149.	Letcher County Fiscal Court - Landfill Closure		

	Restricted Funds	500,000	500,000
150.	Letcher County Water and Sewer District - Water Line Extension		
	Restricted Funds	800,000	
151.	Letcher County Domestic Violence Council		
	Restricted Funds	100,000	
McCreary County			
152.	McCreary County Water District - Water Line Extensions		
	Restricted Funds	403,981	46,019
McLean County			
153.	McLean County Fiscal Court - City of Island Water Department - Debt Service on 10" Line		
	Restricted Funds	70,000	
154.	McLean County Fiscal Court - City of Sacramento - Water System Improvements		
	Restricted Funds		50,000
155.	McLean County Fiscal Court - Water Line Improvements and Fire Hydrants		
	Restricted Funds	60,000	60,000
156.	McLean County Fiscal Court - High Speed Data/E-Government		
	Restricted Funds	30,000	
157.	McLean County Fiscal Court - Rumsey Sewer		
	Restricted Funds	200,000	50,000
158.	McLean County Fiscal Court - Extension of Water Lines at Pone River		
	Restricted Funds	20,000	30,000
159.	McLean County Fiscal Court - Fire Departments		
	Restricted Funds	80,000	
Magoffin County			
160.	Magoffin County Fiscal Court - Administrative Office Building		
	Restricted Funds	600,000	
161.	Magoffin County Fiscal Court - Fire Departments		
	Restricted Funds	100,000	
162.	Magoffin County Water District - Water Line Extensions		
	Restricted Funds	405,000	
163.	Magoffin County Water District - Paintsville New Treatment Plant		
	Restricted Funds	812,046	187,954
164.	Magoffin County Rescue		

	Restricted Funds	20,000
165.	Royallton Fire Department	
	Restricted Funds	20,000
166.	Salyersville Fire Department	
	Restricted Funds	20,000
Martin County		
167.	City of Warfield - Community Center	
	Restricted Funds	25,000
168.	Martin County Senior Citizens Center - Equipment	
	Restricted Funds	20,000
169.	Martin County Sheriff's Office - Equipment	
	Restricted Funds	22,000
170.	Martin County Volunteer Fire Departments	
	Restricted Funds	28,000
171.	Martin County Water District - Upgrade/Expansion Water Treatment Plant	
	Restricted Funds	3,122,831
172.	Martin County Water District - Eastern Area Water Line Extensions	
	Restricted Funds	470,034
173.	Martin County Water District - Side Hollow Water Line Extensions	
	Restricted Funds	1,033,289
174.	Roy F. Collier Community Center - Furnishings and Equipment	
	Restricted Funds	500,000
Menifee County		
175.	Cave Run Water Commission - Water Plant	
	Restricted Funds	237,702
176.	Menifee County Youth Center	
	Restricted Funds	50,000
177.	Menifee Fire Departments	
	Restricted Funds	40,000
178.	Walking Trail Park	
	Restricted Funds	40,000
179.	Spec Building	
	Restricted Funds	250,000
Morgan County		
180.	Morgan County Fiscal Court - ($10,000 Grant to Each of the Six Local Volunteer Fire Departments)	

	Restricted Funds	60,000	
181.	Morgan County Fiscal Court - Industrial Road Development - Spec Building Construction and Industrial Site Development		
	Restricted Funds	750,000	
182.	Morgan County Fiscal Court - Development of Park at the Mouth of Caney Creek		
	Restricted Funds	50,000	
Muhlenberg County			
183.	Muhlenberg County Fiscal Court - Adult Education Initiative		
	Restricted Funds	100,000	
Ohio County			
184.	Ohio County Fiscal Court - Bluegrass Memorial/Music		
	Restricted Funds	234,517	64,640
185.	Ohio County Water District - Transmission Main		
	Restricted Funds	232,260	
186.	Ohio County Water District - Transmission Main		
	Restricted Funds		232,260
Perry County			
187.	City of Hazard - Robinson - Rowdy Water Line		
	Restricted Funds	1,099,134	
188.	City of Hazard - South Perry County Water Line		
	Restricted Funds	769,702	1,280,800
Pike County			
189.	Breaks Interstate Park - Improvement Project		
	Restricted Funds		1,000,000
190.	City of Elkhorn City - Water Line Extension		
	Restricted Funds		363,204
191.	City of Pikeville - Underground Utilities		
	Restricted Funds	1,000,000	
192.	East Kentucky Exposition Center - Facility Construction		
	Restricted Funds	2,000,000	
193.	East Kentucky Exposition Center - Operations		
	Restricted Funds	150,000	250,000
194.	Fishtrap State Park - Expansion Project		
	Restricted Funds	431,226	1,568,774
195.	Mountain Water District - Lower		

	Shelby Valley Sewer Project		
	Restricted Funds	800,000	
196.	Mountain Water District - Fords Mountain Connector		
	Restricted Funds		366,000
197.	Mountain Water District - Phelps Water Line Extensions		
	Restricted Funds	151,000	
198.	Mountain Water District - Feds Creek Extension		
	Restricted Funds	911,747	
199.	Pike County Fiscal Court - Blackberry Senior Citizens Center		
	Restricted Funds	100,000	
200.	Pikeville Water Department - Water Treatment Improvements		
	Restricted Funds	174,000	
201.	Mountain Water District - Chloe-Shelbianna Connector		
	Restricted Funds	197,000	
Rockcastle County			
202.	Reauthorize "Match for Appalachia Community Initiative" and Redirect to Rockcastle County Industrial Authority for Land Acquisition and Job Creation or Expansion		
	(Restricted Funds - $245,000)		
Union County			
203.	City of Morganfield - Raw Water Main		
	Restricted Funds	1,000,000	
204.	Union County Fiscal Court - Sewer Line		
	Restricted Funds		1,000,000
205.	Union County Water District - Water Line Extension		
	Restricted Funds	50,000	
206.	Uniontown Sewer Facility		
	Restricted Funds	150,000	
Webster County			
207.	Sebree South Industrial Park - Sewer Line Extension		
	Restricted Funds	800,000	
208.	Webster County Water District - Water Line Extensions		
	Restricted Funds	600,000	
209.	Webster County Water District - Water Tank		
	Restricted Funds	500,000	

Whitley County			
210.	City of Corbin - Incline Road Water Line Extension		
	Restricted Funds	265,330	
211.	Whitley County Fiscal Court - County Water Line Extensions		
	Restricted Funds		329,300
212.	Whitley County Water District - Nevisdale Water Line Extensions		
	Restricted Funds	252,932	
Wolfe County			
213.	City of Campton - Water Line Extension		
	Restricted Funds		217,673
214.	Hazel Green Fire Truck Purchase		
	Restricted Funds	158,000	

CAPITAL PROJECTS BUDGET PROVISIONS FOR PART II, CAPITAL PROJECTS

1. All appropriations to existing line-item capital construction projects expire on June 30, 2002, unless reauthorized in this Act with the following exceptions: (1) a construction contract for the project shall have been awarded by June 30, 2002; (2) permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds; (3) grant or loan agreements, if applicable, shall have been finalized and properly signed by all necessary parties; and (4) any capital construction project authorized pursuant to actions approved by the 2000 General Assembly House Bill 507 (2000 Ky Acts, Ch. 549, Part II, R. Community Development Projects or S. Coal Severance Tax Projects), unless expressly reauthorized or reallotted in this Act. Any capital construction project authorized pursuant to actions approved by the 2000 General Assembly House Bill 507 (2000 Ky Acts, Ch. 549, Part II, R. Community Development Projects or S. Coal Severance Tax Projects), that is not expressly reauthorized or reallotted in this Act is deemed to be reauthorized. Notwithstanding the criteria set forth in this section, the disposition of 2000-2002 non-statutory appropriated maintenance pools funded from Capital Construction Investment Income shall remain subject to the provisions of KRS 45.770(4)(c) and (d) with the exception of the Cabinet for Families and Children. To facilitate the transfer of five (5) buildings from the Cabinet for Families and Children to the Finance and Administration Cabinet, it is the intent of the General Assembly that any remaining balance in any currently authorized Cabinet for Families and Children non-bond funded project be credited to the Finance and Administration Cabinet Maintenance Pool. Purchases of major items of equipment require reauthorization if a purchase order has not been executed by June 30, 2002.

2. Bond projects authorized for the first time in this section which have debt service supported by state General Fund appropriations are authorized in the first year of the biennium. The full amount of annualized debt service has been included at the beginning of fiscal year 2003-2004. Therefore, the sale of any permanent bonds to finance these projects shall occur after January 1, 2003.

3. If any authorized capital construction or major equipment projects are canceled, any General Fund appropriated debt service for those same projects shall lapse to the credit of the General Fund.

4. Notwithstanding the provisions of KRS 45.750 to 45.782, the General Assembly has determined that certain individual capital projects identified in this Act as eligible for funding from the Emergency Repair, Maintenance and Replacement Fund, the Capital Construction and Equipment Purchase Contingency Fund or the Deferred Maintenance Fund require a direct appropriation from the Emergency Repair, Maintenance and Replacement Fund, the Capital Construction and Equipment Purchase Contingency Fund and the Deferred Maintenance Fund in this Act. KRS 45.782 notwithstanding, certain of the Deferred Maintenance projects identified in Part II of this Act exceed $400,000 each.

5. Investment income earned from bond proceeds beyond that which is required to satisfy Internal Revenue Service arbitrage rebates and penalties and excess bond proceeds upon the completion of a bond financed capital project may be used to pay debt service according to the Internal Revenue Service Code and accompanying regulations. Notwithstanding the provisions of KRS 48.720, KRS 48.010, or any section of this Act, any funds appropriated but not required to pay debt service because of this fund source substitution shall be credited to the Deferred Maintenance Pool Account each year. Unneeded debt service resulting due to any other circumstance shall lapse in accordance with KRS 48.720, KRS 48.010, and other provisions of this Act except for the following: if the fund balance in the Emergency Repair, Maintenance and Replacement Fund falls below $5,000,000 in fiscal year 2001-2002 or in fiscal year 2002-2003, any debt service lapse necessary to bring the fund balance to $5,000,000 in either of these fiscal years shall be credited to the Emergency Repair, Maintenance and Replacement Fund. If the Emergency Repair, Maintenance and Replacement Fund remains at $5,000,000 or above, the first $2,000,000 in fiscal year 2001-2002 or fiscal year 2002-2003 in debt service lapse shall be deposited to the General Fund Surplus Account for the purpose of

paying unbudgeted Necessary Government Expenses. No transfer to the Emergency Repair, Maintenance and Replacement Fund or the General Fund Surplus Account shall be made based on the above provisions if the lapse from other General Fund accounts is insufficient to meet appropriations approved in other parts of this Act.

6. Investment income earned from funds credited to the Technology Trust Fund account in the Finance and Administration Cabinet shall accrue to the Capital Construction and Equipment Purchase Contingency Account established in KRS 45.770.

7. The Council on Postsecondary Education subheading in this Part includes a project entitled "Agency Bond Pool," (L.1.a.). Agency Bond Pool, $66,800,000 in projects are authorized to be funded from Restricted Funds-supported bonds. This pool provides funding for individual projects to be recommended by the Council on Postsecondary Education to the Secretary of the Finance and Administration Cabinet from the project listings previously identified and recommended by the Council for funding in the 2002-2004 biennium.

The provisions of KRS 45.750 to 45.816 notwithstanding, capital construction projects at institutions of postsecondary education involving no state or Federal Funds may be authorized between regular sessions of the General Assembly if the projects receive prior approval from both the Council on Postsecondary Education and the Secretary of the Finance and Administration Cabinet, and the Capital Projects and Bond Oversight Committee receives prior notification.

8. The Research Challenge Trust Fund-Endowment Match capital project appropriation under the Council on Postsecondary Education (L.1.c.) shall be transferred to the Research Challenge Trust Fund as established in KRS 164.7911 and KRS 164.7917.

9. The Regional University Excellence Trust Fund-Endowment Match capital project appropriation under the Council on Postsecondary Education (L.1.d.) shall be transferred to the Regional University Excellence Trust Fund as established in KRS 164.7911 and KRS 164.7919.

10. Notwithstanding 2000 KY Acts Ch. 549, Part II, 10., pertaining to the Capital Renewal and Maintenance Pool, the matching requirement is extended until June 30, 2004. Each postsecondary education institution may access any unmatched funds allocated from the Capital Renewal and Maintenance Pool to that institution after entering into an agreement with the Council on Postsecondary Education agreeing to fulfill the matching requirement by June 30, 2004. The Council on Postsecondary Education shall develop guidelines for the agreements.

11. Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission under the provisions of KRS 56.440 to 56.590. In addition to the terms and conditions of KRS 154.12-100, administration of the Economic Development Bond program by the Secretary of the Cabinet for Economic Development is subject to the following guideline: project selection shall be documented when presented to the Secretary of the Finance and Administration Cabinet. Included in the documentation shall be the rationale for selection and expected economic development impact.

12. Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following areas: Repair of State-Owned Dams, Land Acquisition, Property Demolition, Guaranteed Energy Savings projects, Purchase of Agricultural Conservation Easements (PACE), Wetland and Stream Mitigation, Phase I Tobacco Settlement Agricultural Development Initiative, Economic Development projects which shall include authorization for the High-Tech Construction Pool and the High-Tech Investment Pool, Infrastructure projects, Employment Services facilities projects authorized in this part of this Act, Asbestos Abatement projects, Technology Trust Fund projects, systems, initiatives, and the Council on Postsecondary Education Agency Bond Pool and Capital Renewal and Maintenance Pool. Any projects estimated to cost over $400,000 and equipment estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee. All moneys transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

13. Notwithstanding KRS 42.560 or any other statute or provision of law to the contrary, all undisbursed funds in the Energy Assistance Trust Fund, the expenditure authority for which expired February 19, 1998, are hereby transferred and appropriated to the Energy Efficiency in State Government Buildings Revolving Loan Fund, contingent upon passage of enabling legislation. These funds represent receipts and accumulated interest thereon from the Stripper Well Settlement Agreement under the U.S. Department of Energy Stripper Well Exemption Litigation, as provided in KRS 42.560 to 42.566. These funds are appropriated as Restricted Funds in the Finance and Administration Cabinet's Capital Budget.

14. Notwithstanding the provisions of KRS 154.33-600 to 154.33-609 or any other statute or provision of law to the contrary, all moneys appropriated by the 1998 General Assembly and added to or reauthorized by the 2000 General Assembly for the Red Fox golf course are hereby reauthorized and reallocated to a new entity entitled "The Perry/Knott County Recreational Authority"(PKCRA) with the following exception: the $700,000 originally appropriated by the 1998 General Assembly from the Letcher County/Single County Coal Severance tax money is hereby directed to be returned to Letcher County. The balance of funds remaining in the heretofore entitled Red Fox/Carr Fork golf course project are authorized to be directed to a public recreational project or projects including, but not limited to, a public golf course at a site or sites to be determined by the Authority. The recreational project or projects supported by these funds shall be administered through a new bi-county cooperative authority comprised of one (1) member from both Knott and Perry Counties who shall be appointed by the respective

County Judge/Executive and three (3) members who shall be appointed by the Governor. The new five (5) member Board of the Authority shall develop, operate, and manage the project. This authorization shall supersede any previous authorization by the General Assembly and any memorandum of agreement or understanding that has been entered into among the Commonwealth, Perry, Knott, and Letcher counties.

PART III

GENERAL PROVISIONS

1. Restricted Funds designated in the biennial budget bills are classified in the state financial records and reports as the Agency Revenue Fund, State Enterprise Funds (State Parks, State Fair Board, Insurance Administration, and Kentucky Horse Park), Internal Services Funds (Fleet Management, Computer Services, Correctional Industries, Central Printing, Risk Management, and Property Management), and selected Fiduciary Funds (Unemployment Compensation and Other Expendable Trust Funds). Separate funds records and reports shall be maintained in a manner consistent with the branch budget bills.

The sources of Restricted Funds appropriations in this Act shall include all fees (which includes fees for room and board, athletics, and student activities) and rentals, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments, and other miscellaneous receipts produced or received by a budget unit, except as otherwise specifically provided, for the purposes, use, and benefit of the budget unit as authorized by law. Restricted Funds receipts shall be credited and allotted to the respective fund or account out of which a specified appropriation is made in this Act. All receipts of Restricted Funds shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

The sources of Federal Funds appropriations in this Act shall include federal subventions, grants, contracts, or other Federal Funds received, income from investments, and other miscellaneous federal receipts received by a budget unit, except as otherwise provided, for the purposes, use, and benefit of the budget unit as authorized by law. Federal Funds receipts shall be credited and allotted to the respective fund account out of which a specified appropriation is made in this Act. All Federal Funds receipts shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

2. If receipts received or credited to the Restricted Funds accounts or Federal Funds accounts of a budget unit during fiscal year 2002-2003 or fiscal year 2003-2004, and any balance forwarded to the credit of these same accounts from the previous fiscal year, exceed the appropriation made by specific sum for these accounts of the budget unit as provided in Part I, Operating Budget, of this Act for the fiscal year in which the excess occurs, the excess funds in the accounts of the budget unit shall become available for expenditure for the purpose of the account during the fiscal year only upon compliance with the conditions and procedures specified in KRS 48.400 to 48.800 and this Act, and with the authorization of the State Budget Director of the Office of State Budget Director and approval of the Secretary of the Finance and Administration Cabinet.

Prior to authorizing the appropriation of any excess, unbudgeted Restricted Funds pursuant to this section, the State Budget Director and the Secretary of the Finance and Administration Cabinet shall review the adequacy of the General Fund Surplus Account with respect to its availability to support Necessary Government Expenses. In the event that General Fund Surplus Account moneys are determined by this review to be adequate to meet known or anticipated Necessary Government Expenses during fiscal year 2001-2002 or fiscal year 2002-2003 or fiscal year 2003-2004, respectively, then the appropriation increase may be approved. In the event that the review contemplated in this section indicates that there are insufficient funds available or reasonably estimated to become available to the General Fund Surplus Account to meet known or projected Necessary Government Expenses for the fiscal years enumerated above, the State Budget Director, with the concurrence of the Secretary of the Finance and Administration Cabinet, may disapprove the request for additional Restricted Funds expenditure authority and may direct the excess Restricted Funds identified to the General Fund Surplus Account in order to meet Necessary Government Expense obligations. The results of any review shall be reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.400 to 48.800.

On or before the beginning of each fiscal year, and, if applicable, during each fiscal year, each budget unit shall document and submit to the Finance and Administration Cabinet, the Governor's Office for Policy and Management, and the Legislative Research Commission a record of Restricted Funds and Federal Funds for each budget unit showing the most current estimates of receipts by sources and expenditures by uses, a comparative statement of any revised estimated receipts and proposed expenditures with appropriation sums specified in the enacted Budget of the Commonwealth, and statements which explain the cause, source, and use for a variance which may exist.

Each budget unit shall submit its reports in print and electronic format consistent with the Restricted Funds and Federal Funds records contained in the fiscal biennium 2002-2004 Branch Budget Request Manual and according to the following schedule in each fiscal year: (1) on or before the beginning of each fiscal year; (2) on or before October 1; (3) on or before January 1; and (4) on or before April 1.

3. Funds appropriated in this Act shall not be expended for any purpose not specifically authorized by the General Assembly in this Act nor shall funds appropriated in this Act be transferred to or between any cabinet, department, board, commission, institution, agency, or budget unit of state government unless specifically authorized by the General Assembly in this Act and the provisions of KRS 48.400 to 48.800. Compliance with the provisions of this subsection shall be reviewed and determined by the Interim Joint Committee on Appropriations and Revenue.

4. No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund or Road Fund appropriations contained in this Act unless the obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation considered by the General Assembly, legislative and executive records, and the statutory budget memorandum.

5. Any General Fund or Road Fund appropriation made in anticipation of a lack, loss, or reduction of Federal Funds shall lapse to the General Fund or Road Fund Surplus Account respectively to the extent the Federal Funds otherwise become available.

6. A state agency entitled to Federal Funds which would represent one hundred percent (100%) of the cost of a program shall conform to KRS 48.730.

7. Pursuant to KRS 48.720, any excess General Fund or Road Fund debt service shall lapse to the respective surplus account unless otherwise directed in this Act.

8. No appropriation from any fund source shall exceed the sum specified in this Act until the agency has documented the necessity, purpose, use, and source, and the documentation has been submitted to the Interim Joint Committee on Appropriations and Revenue for its review and action in accordance with KRS 48.630. Proposed revisions to an appropriation contained in the enacted State/Executive Budget or allotment of an unbudgeted appropriation shall conform to the conditions and procedures of KRS 48.630 and this Act.

Notwithstanding KRS 48.630(3), (4), and (5), any proposed and recommended actions to increase appropriations for funds specified in Section 2 of this Part shall be scheduled consistent with the timetable contained in that section in order to provide continuous and timely budget information.

9. Allotments within appropriated sums for the activities and purposes contained in the enacted State/Executive Budget shall conform to KRS 48.610 and may be revised pursuant to KRS 48.605 and this Act.

10. All statutory continuing appropriations in existence at the time this Act takes effect are discontinued and suspended by this Act except as provided by Chapters 42, 96A, 164, 183, 278, and 441 of the Kentucky Revised Statutes. All statutes and portions of statutes in conflict with any of the provisions of this section, to the extent of the conflict, are suspended, unless otherwise provided by this Act.

11. Except as otherwise explicitly authorized by this Act, nothing in this Act shall be construed to repeal any appropriation made heretofore or hereafter for the fiscal year ending June 30, 2002, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet except as otherwise provided in this Act.

12. All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which the appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500, and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

13. The State Budget Director shall cause the Governor's Office for Policy and Management, within sixty (60) days upon adjournment of the 2002 Regular Session of the General Assembly, to publish a final enacted budget document, styled the Budget of the Commonwealth, based upon the recommended State/Executive Budget, Judicial Budget, and Legislative Budget as enacted by the 2002 Regular Session of the General Assembly as well as other Acts which contain appropriation provisions for the 2002-2004 biennium, and based upon supporting documentation and legislative records as considered by the 2002 Regular Session of the General Assembly and the statutory budget memorandum. This document shall include for each agency and budget unit a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class and for the State/Executive Budget, and any other fiscal data and commentary considered necessary for budget execution by the Governor's Office for Policy and Management and oversight by the Interim Joint Committee on Appropriations and Revenue. The enacted State/Executive Budget shall be revised or adjusted only upon approval by the Governor's Office for Policy and Management as provided in each part of this Act and by KRS 48.400 to 48.800, and upon review and action by the Interim Joint Committee on Appropriations and Revenue.

14. Pursuant to KRS 48.400, the Secretary of the Finance and Administration Cabinet shall monitor and report on the financial condition of the Commonwealth.

15. The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for prorating the administrative costs of the Finance and Administration Cabinet, the Department of Treasury, and the Office of the Attorney General relative to the administration of programs in which there is joint participation by the state and federal governments for the purpose of receiving the maximum amount of participation permitted under the appropriate federal laws and regulations governing the programs. The receipts and allotments under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue prior to any transfer of funds.

16. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Secretary of the Transportation Cabinet. However, if Road Fund resources are not sufficient to meet lease rental payments, the additional amount required for meeting lease rental payments as certified by the Secretary of the Transportation Cabinet under KRS 143.090 shall be transferred from coal severance tax receipts to meet the obligation.

17. Nothing in this Act shall be construed to confirm or ratify, under KRS 12.027 or 12.028, any executive reorganization order unless the executive order was confirmed or ratified by appropriate amendment to the Kentucky Revised Statutes in another Act of the 2002 Regular Session of the General Assembly. If any executive reorganization order issued from sine die adjournment of the 2001 Regular Session to sine die adjournment of the 2002 Regular Session is not confirmed by the 2002 Regular Session of the General Assembly, the Secretary of the Finance and Administration Cabinet shall, in consultation with agency heads and with notification to the Legislative Research Commission, transfer the balance of funds for any affected program or function for fiscal year 2001-2002 and any related appropriations and funds for each of the next two fiscal years from the budget unit in which the program or function was placed by the executive reorganization order to the budget unit in which the program or function resided prior to the reorganization action or in which it was placed by action of the 2002 Regular Session of the General Assembly. The Legislative Research Commission shall forward the documentation to the appropriate committees.

18. Notwithstanding KRS 61.565, the employer contribution rate for the Kentucky Employees Retirement System shall be as follows: the General Assembly has determined that the employer contribution rate for the Kentucky Employees Retirement System for fiscal year 2002-2003 shall take appropriate notice of the additional revenues credited to the system as a result of the Anthem Blue Cross Blue Shield demutualization agreement. Therefore, from July 1, 2002, through June 30, 2003, the contribution rates shall be no more than three and seventy-six hundreths percent (3.76%) for nonhazardous duty employees, seventeen and six-tenths percent (17.60%) for hazardous duty employees; and seventeen and thirty-seven hundreths percent (17.37%) for employees of the State Police Retirement System. From July 1, 2003, through June 30, 2004, the employer contribution rate shall be no more than five and eighty-nine hundreths percent (5.89%) for nonhazardous duty employees; and eighteen and eighty-four hundreths percent (18.84%) for hazardous duty employees; and twenty-one and fifty-eight hundreths percent (21.58%) for employees of the State Police Retirement System.

19. By August 15, 2003, the Finance and Administration Cabinet, in conjunction with the Consensus Forecast Group, shall provide to each branch of government, pursuant to KRS 48.117, a budget planning report.

20. By October 15, 2003, the Finance and Administration Cabinet shall provide to each branch of government detailed estimates for the General Fund and Road Fund for the current and next two fiscal years of the revenue loss effected by tax expenditures. The Revenue Cabinet shall provide assistance and furnish data which is not restricted by KRS 131.190. "Tax expenditure" means an exemption, exclusion, or deduction from the base of a tax, a credit against the tax, a deferral of a tax, or a preferential tax rate. The estimates shall include for each tax expenditure the amount of revenue loss, a citation of the legal authority for the tax expenditure, the year in which it was enacted, and the tax year in which it became effective.

21. Any appropriation item and sum in Part I to Part XI of this Act and in an appropriation provision in another Act of the 2002 Regular Session which constitute a duplicate appropriation shall be governed by KRS 48.312.

22. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

23. Appropriation items and sums in Part I to Part XI of this Act shall conform to KRS 48.311. If any section, any subsection, or any provision is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

24. For fiscal year 2002-2003 and fiscal year 2003-2004, the first $6,000,000 of any unclaimed prize money held in the corporate operating account of the Kentucky Lottery Corporation shall be added to the pool from which future prizes are to be awarded or used for special prize promotions, and any amount in excess of $6,000,000 shall be transferred to the Affordable Housing Trust Fund established by KRS 198A.710.

25. Notwithstanding KRS 48.700 and the provisions of Part I, II, IX, or X of this Act, $23,450,000 in the undesignated fiscal year 2001-2002 General Fund balance shall be carried forward and available for appropriation in fiscal year 2002-2003, and $57,381,900 in the undesignated fiscal year 2002-2003 General Fund balance shall be carried forward and available for appropriation in fiscal year 2003-2004.

26. The Technology Trust Fund is the Technology Trust Fund established by the 1996 Ky. Acts ch. 380, Part X, to empower Kentucky state government through technology and redesigned business systems, and additional amounts made available and appropriated to it by the 1998 Regular Session in House Bill 321 (1998 Ky. Acts ch. 615, Part X).

Appropriations allotted from the Technology Trust Fund for each project, initiative, or system, as well as all other associated resources made available from regular appropriations for the same purpose from a budget unit shall be transferred and credited to, and accounted for and expended from, a discrete account established for the individual project, initiative, or system item. In addition to the General Fund appropriations in this Part for the Technology Trust Fund, Restricted Funds, Federal Funds, the Road Fund, private funds, and any matching fund appropriations required are appropriated in support of the projects and priorities identified by the Redesign Steering Committee. However, KRS 45.760(14), 45.770, 45.780, and 45.800 notwithstanding, no funds from the Emergency Repair, Maintenance and Replacement Account shall be used for Technology Trust Fund projects, systems, or initiatives.

27. The General Assembly acknowledges that during fiscal year 2000-2001 the General Fund revenues were less than the enacted estimates pursuant to KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in the 2000 Kentucky Acts Chapters 544, 545, and 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 General Fund Budget Reduction Plan for fiscal year 2000-2001 in the 2000 Kentucky Acts Chapter 549, Part VI, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the heads of the executive, judicial, and legislative branches shall revise and reduce appropriations and allotments and other deficit alleviation actions for their respective branch budget units under KRS 48.130(4).

Notwithstanding the provisions of KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised General Fund appropriation levels for the budget units of the Executive Branch identified in General Fund Budget Reduction Order 01-01 and General Fund Budget Reduction Order 01-02 and confirms and enacts the advances, transfers, and lapses to the General Fund of non-General Fund moneys identified in General Fund Budget Reduction Order 01-01 and General Fund Budget Reduction Order 01-02.

The General Assembly acknowledges that during fiscal year 2001-2002 the General Fund revenues were less than the enacted estimates pursuant to KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in the 2000 Kentucky Acts Chapters 544, 545, and 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 General Fund Budget Reduction Plan for fiscal year 2001-2002 in the 2000 Kentucky Acts Chapter 549, Part VI, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the heads of the executive, judicial, and legislative branches shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding the provisions of KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised General Fund appropriations levels for budget units of the Executive Branch contained in General Fund Budget Reduction Order 02-01 and General Fund Budget Reduction Order 02-02, and confirms and enacts the advances, transfers, and lapses to the General Fund of non-General Fund moneys identified in General Fund Budget Reduction Order 02-01 and General Fund Budget Reduction Order 02-02.

The General Assembly acknowledges that during fiscal year 2000-2001 the Road Fund revenues were less than the enacted estimates in accordance with KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in the 2000 Kentucky Acts Chapter 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 Road Fund Budget Reduction Plan for fiscal year 2000-2001 in the 2000 Kentucky Acts Chapter 549, Part VII, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the head of the Executive Branch shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding the provisions of KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised Road Fund appropriation levels for the budget units of the Executive Branch identified in Road Fund Budget Reduction Order 01-01 and Road Fund Budget Reduction Order 01-02 and confirms and enacts the advances, transfers, and lapses to the Road Fund of non-Road Fund moneys identified in Road Fund Budget Reduction Order 01-01 and Road Fund Budget Reduction Order 01-02.

The General Assembly acknowledges that during fiscal year 2001-2002 the Road Fund revenues were less than the enacted estimates in accordance with KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in the 2000 Kentucky Acts Chapter 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 Road Fund Budget Reduction Plan for fiscal year 2001-2002 in the 2000 Kentucky Acts Chapter 549, Part VII, for state government in accordance with KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the head of the Executive Branch shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding the provisions of KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised Road Fund appropriations levels for budget units of the Executive Branch contained in Road Fund Budget Reduction Order 02-01 and Road Fund Budget Reduction Order 02-02, and confirms and enacts the advances, transfers, and lapses to the Road Fund of non-Road Fund moneys identified in Road Fund Budget Reduction Order 02-01 and Road Fund Budget Reduction Order 02-02.

28. Notwithstanding KRS 30A.200(4), in addition to providing for the provisions in accordance with KRS 30A.200(4), the fees deposited for this purpose shall also be used to provide funds to support the costs associated with establishing a Deputy Clerk Career Ladder as follows: Contingent upon the passage of 2002 House Bill 452, or other enabling legislation, after every fifth, tenth, and fifteenth year of continuous service, and with the recommendation of the circuit clerk, deputy circuit clerks shall be reclassified to the next highest corresponding employment class and pay grade level at each such interval. Deputy circuit clerks employed as of the effective date of this Act shall be eligible for such a promotion based upon years of service and all reclassified and promoted deputy clerks shall receive a one thousand two hundred dollar ($1,200) per year increase in salary for each such reclassification or promotion. These funds shall not be subject to the provisions of Part IV of this Act or any legislation that provides funding for the operations, maintenance, support, and functioning of the judicial branch of government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

29. Notwithstanding KRS 138.510, tracks with an average daily handle of one million two hundred thousand dollars ($1,200,000) or more shall be allowed a tax credit equal to twelve thousand dollars ($12,000) multiplied by the number of racing days at the track for the fiscal year beginning after June 30, 2002 and ending June 30, 2003, and twelve thousand dollars ($12,000) multiplied by the number of racing days at the track for the fiscal year beginning after June 30, 2003, and ending June 30, 2004, if an amount equal to at least fifty percent (50%) of the credit is used for capital improvements and at least (50%) is used for horsemen's incentives. Capital improvement means any addition, replacement, or remodeling of a structural unit of the track, including but not limited to the construction of barns used for the track, backstretch facilities for horsemen, paddock facilities,

new pari-mutuel and totalizator or equipment, new access roads, new parking facilities, the reconstruction, reshaping, or leveling of the racetrack, the installation of permanent new heating or air conditioning, and installations of a permanent nature forming part of the track structure. Fifty percent (50%) of the amount of the tax credit for the horsemen's incentives shall be allocated to purses at the track and fifty percent (50%) allocated for stabling and transportation costs. The method of dispersal of the stabling and transportation costs shall be agreed upon by the track receiving the tax credit and the horsemen's group or groups contracting with the track. If a track fails to complete a qualifying capital improvement or make qualifying expenditures for horsemen's incentives, the Kentucky Economic Development Finance Authority as created under KRS 154.20-010 shall order the track to repay to the state all or any portion of the amount of the tax credit received by the track. The track receiving the credit shall report quarterly to the Interim Joint Committee on Appropriations and Revenue on the amounts of qualifying capital improvements and expenditures for horsemen's incentives made for which the credit is claimed.

30. Notwithstanding KRS 138.510, if a track licensed by the Kentucky Racing Commission has a total annual handle on live racing of three million five hundred thousand dollars ($3,500,000) or less, the excise tax imposed under KRS 138.510(2) shall be reduced to two percent (2%) for fiscal year 2002-2003 and fiscal year 2003-2004. The amount representing the difference between the tax as imposed under this provision and the tax as imposed under KRS 138.510(2) shall be retained by the track to promote and maintain its facilities and its live meet.

31. Notwithstanding any provision of the Kentucky Revised Statutes, to the extent that any governmental agency purchases motor vehicle liability insurance, sovereign immunity shall be waived to the extent of the insurance coverage.

32. Notwithstanding KRS 97.035(1), (2), and (3), when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, such city and county shall by joint action create a joint city/county department to maintain and conduct a park and recreational system or systems. In such event, the board shall be dissolved as a corporate entity and all assets and liabilities of the board shall be transferred to the joint department. An advisory board may be established by joint agreement of such city and county. Notwithstanding KRS 97.035(1), (2), and (3), any city, except a city of the first class, and a county, except a county containing a city of the first class, operating a joint system under KRS 97.035 may by joint action create a joint city/county department to maintain and conduct a park and recreational system or systems. In such event, the board shall be dissolved as a corporate entity and all assets and liabilities of the board shall be transferred to the joint department. An advisory board may be established by joint agreement of such city and county.

33. As provided in Part V, Funds Transfer, of this Act, any funds remaining in flexible spending accounts of employees of local districts for calendar year 2001 shall be transferred to the credit of the General Fund and any funds remaining in flexible spending accounts of employees of local school districts for calendar year 2002 and calendar year 2003 shall also be transferred to the credit of the General Fund.

PART IV

STATE SALARY/COMPENSATION AND EMPLOYMENT POLICY

1. Notwithstanding KRS 18A.010(2), for the 2002-2004 fiscal biennium, the total number of filled permanent positions in the agencies of the Executive Branch is limited to the number authorized in the enacted State/Executive Budget of the Commonwealth for the 2002-2004 fiscal biennium. The provisions of this section do not apply to the employees of the General Assembly, the Legislative Research Commission, or the Court of Justice.

2. On July 1, 2002, the Personnel Cabinet shall establish a record of budgeted permanent and other equivalent positions based upon the enacted State/Executive Budget of the Commonwealth and any adjustments authorized by provisions in this Act. The total number of filled and vacant positions of full-time, part-time, and interim employees shall not exceed the authorized complements pursuant to this section. When an agency head certifies that an emergency employment situation exists for a limited time within a fiscal year, the State Budget Director may approve, and the Secretary of Personnel may authorize, the employment of individuals in addition to the authorized complement for the duration of the limited time period so authorized within the fiscal year. A copy of records, certifications, and actions authorized in this section shall be provided to the Interim Joint Committee on Appropriations and Revenue on a monthly basis.

3. Notwithstanding KRS 18A.355(1), a cost-of-living adjustment of two and seven tenths percent (2.7%) is provided in fiscal year 2002-2003 and fiscal year 2003-2004 on the base salary or wages of each eligible state employee on their anniversary date.

4. Each budget unit with an authorized personnel complement in excess of the number of positions funded in this Act shall submit a plan to the Office of State Budget Director for approval identifying adequate appropriate funding source(s) prior to filling any positions above the funded number. Upon approval of the State Budget Director, the agency budget may fill the authorized number of positions.

PART V

FUNDS TRANSFER

1. It is the finding of the General Assembly of the Commonwealth of Kentucky that the financial condition of state government requires the following action.

2. Notwithstanding the requirements of the statutes set forth below, there is transferred from the Restricted Funds enumerated below to the General Fund the following amounts in fiscal year 2001-2002, fiscal year 2002-2003, and fiscal year 2003-2004.

		2001-2002	2002-2003	2003-2004
1.	Department of Insurance (KRS 304.2-400)	2,500,000	6,000,000	6,000,000
2.	Fire and Tornado Insurance Fund (KRS 56.095; 56.150; 56.180)		500,000	500,000
3.	Department of Insurance, Kentucky Access (KRS 304.17B-001 to 304.17B-031)		36,000,000	13,000,000
4.	Department of Financial Institutions (KRS 287.485)		1,000,000	2,000,000
5.	Underground Petroleum Storage Tank Environmental Assurance Fund (KRS 224.60-100 to 224.60-160)		71,000,000	20,500,000
6.	Technology Trust Fund (1998 Ky. Acts ch. 615, Part X, Sec. 5 II. 5)		13,800,000	
7.	Flexible Spending Account (KRS 18A.225 (2)(g))		13,000,000	
8.	Health Purchasing Alliance Refund (KRS 304.17A-071)		2,300,000	
9.	State Employees Workers' Compensation Reserve (KRS 18A.370 to KRS 18A.385)		4,000,000	
10.	Alcoholic Beverage Control (KRS 243.025)		250,000	250,000
11.	Asbestos Litigation Fund			340,600
12.	Kentucky State Fair Board - Freedom Hall Portable Trailers (2000 Ky. Acts ch. 549, Part II, Sec. O(2)(c))		300,000	
13.	Bond Pool Fund (KRS 350.700)		1,000,000	2,000,000
14.	Health Purchasing Alliance (Account No. 7200-C47-AE00)		1,330,200	
15.	Humana Escrow (Account No. 7200-C47A-C00)		41,200	
16.	Health Insurance Adjustment (Account No. 7200-C47-B126)		300,700	
17.	School Districts Flexible Spending Accounts	14,000,000	14,000,000	14,000,000
18.	Commonwealth Choice			1,326,000

3. The Finance and Administration Cabinet shall transfer the funds enumerated below to the General Fund in fiscal year 2002-2003 and fiscal year 2003-2004.

			2002-2003	2003-2004
1.	Maintenance Pool Investment Income		4,000,000	3,000,000
2.	Statewide Land Acquisition Fund		1,800,000	
	Total	16,500,000	170,622,100	62,916,600

PART VI

GENERAL FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130 and 48.600, a General Fund Budget Reduction Plan is enacted for state government in the event of an actual or projected deficit in estimated General Fund revenue receipts of $6,842,050,551 in fiscal year 2001-2002, $7,093,341,900 in fiscal year 2002-2003, and $7,335,500,000 in fiscal year 2003-2004 as modified by related Acts and actions of the General Assembly in an extraordinary or regular session. Direct services, obligations essential to the minimum level of constitutional functions, and other items that may be specified in this Act, are exempt from the requirements of this Plan. Each branch head shall prepare a specific plan to address a proportionate share of the General Fund revenue shortfall applicable to the respective branch. No budget revision action shall be taken by a branch head in excess of the actual or projected deficit.

The Governor, the Chief Justice, and the Legislative Research Commission shall direct and implement reductions in allotments and appropriations only for their respective branch budget units as may be necessary as well as take other measures which shall be consistent with the provisions of this Part and general branch budget bills.

In the event of a revenue shortfall under the provisions of KRS 48.120, General Fund budget reduction actions shall be implemented in the following sequence:

(1) The Local Government Economic Assistance and the Local Government Economic Development Funds shall be adjusted by the Secretary of the Finance and Administration Cabinet to equal revised estimates of receipts pursuant to KRS 42.4582 as modified by the provisions of this Act.

(2) Transfers of excess unappropriated and unbudgeted Restricted Funds other than fiduciary funds shall be applied as determined by the head of each branch for its respective budget units.

(3) Excess General Fund appropriations which accrue as a result of personnel vacancies and turnover, and reduced requirements for operating expenses, grants, and capital outlay shall be determined and applied by the heads of the executive, judicial, and legislative departments of state government for their respective branches. The branch heads shall certify the available amounts which shall be applied to budget units within the respective branches and shall promptly transmit the certification to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission. The Secretary of the Finance and Administration Cabinet shall execute the certified actions as transmitted by the branch heads.

Branch heads shall take care, by their respective actions, to protect, preserve, and advance the fundamental health, safety, legal and social welfare, and educational well-being of the citizens of the Commonwealth.

(4) Funds available in the Budget Reserve Trust Fund shall be applied in an amount not to exceed twenty-five percent (25%) of the trust fund balance in fiscal year 2002-2003 and fifty percent (50%) of the trust fund balance in fiscal year 2003-2004.

(5) Notwithstanding the provisions of KRS 48.130 and KRS 48.600, if the actions contained in subsections (1) through (4) of this section are insufficient to eliminate an actual or projected revenue shortfall in the enacted General Fund revenue receipts, then the Governor is empowered and directed to take necessary actions with respect to the Executive Branch budget units to balance the budget by such actions conforming with the criteria expressed in the preceding subsection.

PART VII

ROAD FUND BUDGET REDUCTION PLAN

There is established a Road Fund Budget Reduction Plan for fiscal year 2002-2003 and fiscal year 2003-2004. Notwithstanding the provisions of KRS 48.130, in the event of an actual or projected shortfall in estimated Road Fund revenue receipts of $1,097,539,300 in fiscal year 2002-2003 and $1,131,218,300 in fiscal year 2003-2004 as determined by KRS 48.120(3), the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service. No budget revision action shall be taken in excess of the actual or projected deficit.

PART VIII

ROAD FUND SURPLUS EXPENDITURE PLAN

Notwithstanding KRS 48.140 and pursuant to KRS 48.710, there is established a plan of expenditures from the Road Fund Surplus Account. All moneys in the Road Fund Surplus Account shall be deposited in the State Construction Account and utilized to support projects in the 2002-2004 Biennial Highway Construction Program.

PART IX

SPECIAL PROVISIONS

GOVERNMENT OPERATION

1. GOVERNOR'S OFFICE OF TECHNOLOGY

a. Office of Statewide 911 Coordination: The Office of Statewide 911 Coordination is established within the Governor's Office of Technology. The Office of Statewide 911 Coordination shall have the responsibility for monitoring, enforcing, and coordinating 911 and enhanced 911 system compliance and implementation statewide. The office shall include a statewide 911 coordinator along with appropriate staff to accomplish the objectives as stated in this section. The office shall provide education, training, and technical assistance for public safety answering points and private telephone system owners and operators. The 911 coordinator shall collect data from public safety answering points and private telephone system owners and operators and shall make a report to the Legislative Research Commission in August of each year proceeding the regular session.

The report shall contain recommendations concerning necessary modifications to compliance requirements occasioned by technological and other advances or changes in telephone system equipment.

b. Notwithstanding the provisions of KRS 11.550, the responsibilities and membership of the Telehealth Board shall be expanded to include:

Four members at large, appointed by the Governor, with one representing each of the following interests: large scale e-strategy or computer technology, health insurance, large company with at least one thousand employees, and physician practice management, which shall be reimbursed for their costs associated with attending board meetings. Ex officio members of the board shall include:

1. Commissioner, or a designee, of the Office for the New Economy;

2. Secretary, or a designee, of the Personnel Cabinet;

3. Secretary, or a designee, of the Cabinet for Health Services;

4. Commissioner, or a designee, of the Department of Insurance;

5. Two (2) members of the Senate appointed by the President of the Senate, with one from the majority party and one from the minority party; and

6. Two (2) members of the House of Representatives appointed by the Speaker of the House, with one member from the majority party and one from the minority party.

The Chancellors, or designees, of the medical schools of the University of Kentucky and the University of Louisville shall serve as co-chairs of the board;

The board shall complete a study related to the feasibility of implementing an electronic health network in the Commonwealth using federal and voluntarily contributed private funds;

The study shall include a review of various models and comparative business cases. Each model considered shall be capable of supporting administrative transactions and clinical electronic health applications, including the capability to integrate an electronic Medicaid management information system. The study shall include an analysis of projected costs and how those would be allocated among various payors, options for financing the network, projected returns on investments, a timetable for those returns, any proposed subscription or transactions fees, and a timetable for implementation. The study shall include the analysis of at least one model implemented in phases;

The board shall submit a report of the feasibility study to the Legislative Research Commission upon its completion for the opportunity for any comments and shall seek any required state funds through the appropriations process;

If a model is deemed feasible by the board and the General Assembly concurs, the board shall oversee the implementation of the model. The board shall be responsible for overseeing the development of any central interchange, developing a network of voluntary payors and health care providers, making recommendations regarding the distributed components, assessing the benefits of the network, and adopting standards for computer systems communicating with the central interchange;

If a model is implemented, the board shall promulgate administrative regulations to adopt the standards for electronic transactions to protect the security and privacy of health information that are compliant with the HIPAA standards as the federal regulations become final or more stringent standards as determined by the board;

The board may contract with any independent third party for any service necessary to carry out its responsibilities and may establish any committees, member of which need not be members of the board; and

Any funds received by the board from a government or private source, or collected from subscription or transaction fees shall be used solely for electronic health or telehealth purposes as approved by the board. These fund shall not lapse, and funds not expended during any fiscal year shall carry forward to the next fiscal year.

2. ATTORNEY GENERAL

a. Deputy and Assistant Attorneys General Salaries: Notwithstanding KRS 15.100, the Attorney General may set the salary for the deputy attorney general and the salary for the two (2) assistant deputy attorneys general at a rate less than that required in KRS 15.100.

b. Health Care Rate Intervention: In addition to such funds as may be appropriated, this Office may request from the Finance and Administration Cabinet, as a necessary government expense, such funds as may be necessary for expert witnesses pursuant to KRS 304.17A-095. The Finance and Administration Cabinet shall approve up to $175,000 for the 2002-2004 biennium for this purpose to the Office of the Attorney General. The Department of Insurance shall provide the Office of the Attorney General any available information to assist in the preparation of a rate hearing pursuant to KRS 304.17A-095.

c. Annual and Sick Leave Service Credit: Notwithstanding any statutory or regulatory restrictions to the contrary, any former employee of the Unified Prosecutorial System who has been appointed to a permanent full-time position under KRS Chapter 18A shall be credited annual and sick leave based on service credited under the Kentucky Retirement System solely for the purpose of computation of sick and annual leave. This provision shall only apply to any new appointment or current employee as of July 1, 1998.

d. Child Sexual Abuse Exams: Notwithstanding KRS 186.1867, the Transportation Cabinet shall review the costs related to the distribution of child victim's license plates. Any revenue received from the sale or renewal of these plates in excess of actual costs shall be transferred to the Child Victims Trust Fund on an annual basis.

e. Legal Services Contracts: The Attorney General may present proposals to state agencies specifying legal work that is presently accomplished through Personal Service Contracts that indicate the Office of the Attorney General's capacity to perform the work at a lesser cost. State agencies may agree to make arrangements with the Attorney General to perform the legal work and compensate the Attorney General for the legal services.

f. Public Funds: Notwithstanding any provision of common law or statutory law to the contrary, any funds or other assets of any kind or nature, including but not limited to public funds as defined in KRS 446.010, court-ordered settlement agreements under KRS Chapter 367, multi-state settlements, and private funds or assets recovered in a legal action on behalf of the general public, the Commonwealth, or its duly elected statewide public officials shall be deemed public funds, and shall be deposited in the General Fund Surplus Account. The Attorney General shall provide notice to the Governor's Office of Policy and Management and the Legislative Research Commission of the nature of any funds deposited in this account and no funds shall be disbursed without a specific legislative appropriation by the General Assembly while in a regular or special legislative session. This provision shall not apply to any funds or other assets recovered by judgment, settlement, or legal action by or on behalf of the Commonwealth, or other actions filed by a duly elected statewide public official, if the recovery sought and received is for specific individuals, identified as parties to the action, or persons for whom the recovery is received if identified specifically. Identification includes but is not limited to identification either by individual Social Security numbers, or other identifying number, or by proper name.

3. UNIFIED PROSECUTORIAL SYSTEM

a. Prosecutors Advisory Council Administrative Functions: The Prosecutors Advisory Council shall approve compensation for employees of the Unified Prosecutorial System subject to the appropriation in the Act.

4. AUDITOR OF PUBLIC ACCOUNTS

a. State Agencies Audit Services Contracts: No state agency shall enter into any contract with a non-governmental entity for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within thirty (30) days of receipt of a written request. The agency requesting the audit shall furnish the Auditor of Public Accounts a comprehensive statement of the scope and nature of the proposed audit.

b. Audit Records and Status Reports: The Auditor of Public Accounts shall report in writing each sixty (60) days to the Interim Joint Committee on Appropriations and Revenue the progress of all state audits, together with copies of all completed audits. The auditor shall maintain a record of all time and expenses for each audit or investigation.

c. Charges for Federal, State, and Local Audits: Any additional expense incurred by the Auditor of Public Accounts for auditing Federal Funds, when the audits are mandated by a cognizant federal audit agency, shall be charged to the audited agency when the costs may be charged against Federal Funds. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operation of the office. The Auditor shall maintain a record of all costs and expenditures associated with this provision.

Each quarter, the Auditor of Public Accounts shall notify the Finance and Administration Cabinet concerning the collection status of the fees charged for county audits. If a county government is delinquent in its payment to the Auditor of Public Accounts, the Finance and Administration Cabinet shall withhold any moneys due that county government for the term of one hundred twenty (120) days or until the Auditor of Public Accounts has received full payment from the county. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operations of the office.

The "Single Audit Act of 1984" and the "Single Audit Act Amendments of 1996" (OMB Circular No. A-133) have changed the method by which federal moneys to state agencies are audited. As a result of this federal change, the Auditor of Public Accounts is budgeted to receive additional agency receipts which shall be allotted by the Governor's Office for Policy and Management for programs authorized in the enacted budget for the Auditor of Public Accounts by the 2002 General Assembly, subject to the conditions and procedures provided in this Act.

Any expenses incurred by the Auditor of Public Accounts for auditing a state or local government agency or other entity upon its request, or for performing an audit required by statute unless the audit is required by those standards governing the audit of the Commonwealth's Comprehensive Financial Report or the provisions contained in the "Single Audit Act of 1984" and the "Single Audit Act Amendments of 1996", shall be charged to the agency or entity audited.

Any expense incurred by the Auditor of Public Accounts for auditing individual governmental entities shall be charged to the agency receiving audit services when expenses are mutually agreed upon or when a legislatively mandated study by the Auditor of Public Accounts has determined the need for the audit.

5. DEPARTMENT OF AGRICULTURE

a. Agriculture - PACE Program: The PACE board may contract directly with land surveyors, real estate appraisers, and other licensed professionals as necessary.

6. PERSONNEL BOARD

a. Administrative Hearings Notice: Notwithstanding KRS 13B.050(2), the Personnel Board shall send notices of administrative hearings by first-class mail.

7. LOCAL GOVERNMENT

a. Flood Control Matching Fund Project Review: The Department for Local Government shall transmit a copy of the application for a flood-related project to be funded from the flood control matching fund to the Natural Resources and Environmental Protection Cabinet with a request for a review of the project pursuant to KRS Chapter 151.

8. GOVERNOR'S OFFICE OF VETERANS' AFFAIRS

a. Weekend and Holiday Premium Pay Incentive: The Kentucky Veterans' Center at Wilmore is authorized to continue the weekend and holiday premium pay incentive component of the Personnel Pilot Program for the fiscal biennium 2002-2004.

b. General Fund Operating Support: Notwithstanding KRS 45.229, the unexpended balance of the General Fund appropriation provided to the Eastern Kentucky Veterans Center, the Western Kentucky Veterans Center, and the Thompson/Hood Veterans Center in fiscal year 2001-2002 shall not lapse and shall be carried forward into fiscal year 2002-2003; the unexpended balance of the General Fund appropriation in fiscal year 2002-2003 shall not lapse and shall be carried forward into fiscal year 2003-2004.

9. GOVERNOR'S OFFICE OF EARLY CHILDHOOD DEVELOPMENT

a. Notwithstanding KRS 200.151, 2000 Ky. Acts, ch. 549, Part XI, 3, B.1.a. and any other provisions in this Act, Phase I Tobacco Settlement Funds in the amount of $1,000,000 shall lapse to the General Fund at the close of fiscal year 2001-2002.

10. KENTUCKY AGENCY FOR SUBSTANCE ABUSE POLICY

a. Notwithstanding KRS 304.17B-003, 2000 Ky. Acts, Ch. 549, Part XI, C.1.a, and any other provisions in this Act, Phase I Tobacco Settlement Funds in the amount of $1,000,000 shall lapse to the General Fund at the close of fiscal year 2001-2002.

11. KENTUCKY RIVER AUTHORITY

a. Water Withdrawal Fees: The water withdrawal fees imposed by the Kentucky River Authority shall not be subject to state and local taxes. Notwithstanding that portion of the provision of KRS 151.710(10) that directs the Finance and Administration Cabinet to provide administrative services for the Kentucky River Authority, Tier I water withdrawal fees shall be used to support the operations of the Authority and for contractual services for water supply and quality studies.

12. EDUCATION PROFESSIONAL STANDARDS BOARD

a. Employment of Leadership Personnel: Notwithstanding KRS 18A.005 to 18A.200, the Education Professional Standards Board shall have the sole authority to determine the employees of the Education Professional Standards Board staff who are exempt from the classified service and to set their compensation comparable to the competitive market.

b. Teacher Education Model Program: Funding in the amount of $2,000,000 shall be provided during the 2002-2003 fiscal year for a Teacher Education Model Program to be administered by the Education Professional Standards Board. The purposes of the program shall be to:

(1) (a) Support model teacher education programs that demonstrate effective research-based instruction and assessment practices, involve the entire university community in teacher education, demonstrate collaboration and partnerships between elementary, secondary, and postsecondary education, facilitate the recruitment and retention of talented people in the teaching profession through innovative, non-traditional programs and multiple certification routes, require high-quality, extensive field experiences and practicums in addition to ongoing classroom observations as an essential element at all stages of the teacher preparation program, and raise the existing and prospective teachers' professional knowledge in content and pedagogy.

(1) (b) Provide incentives to teacher education and other university faculty to increase service activities beyond the usual field observations and supervision of teacher education students to include mentoring and guiding of prospective teacher education students, of beginning teachers in the induction stage, and of experienced teachers in continuous improvement activities; conducting training and professional development activities which may include funding stipends to teachers for participation; providing funding and supervision for paid sabbaticals for a selected number of local school district teachers; assisting teachers with evaluation and revision of curricula and instruction to improve student achievement; and other innovative strategies to improve the quality of teaching.

(2) By October 15, 2002, the board shall identify two (2) or more public or independent teacher education institutions or consortia of institutions that meet the criteria in subsection (1)(a) of this section and are eligible to make applications for funds under this section.

(3) By November 1, 2002, the board shall establish the grant request process, the time frame, and the system for determining the size of the grants. In determining the size of the grants, the council shall consider the scope of the teacher education program, the number of undergraduate and graduate students enrolled, the number of teacher and administrator interns, the extent of university-wide faculty involvement in induction and in-service activities with teachers in local school districts, and other data as deemed appropriate by the council. By January 1, 2003, all eligible institutions shall be notified of the request for proposals.

(4) The board shall make the grant awards prior to the start of the 2003-2004 fiscal year.

ECONOMIC DEVELOPMENT

13. OFFICE OF THE SECRETARY

a. New Economy: Funding for the Commissioner for the New Economy: Notwithstanding KRS 154.20-030 to 154.20-570, interest income earned on balances in the High-Technology Construction Pool and the High-Technology Investment Pool shall be used to support the Office of the Commissioner for the New Economy within the Department of Economic Development. Upon the recommendation of the Commissioner, these funds are authorized and appropriated to fund High-Technology Construction/Investment Pool projects.

Notwithstanding KRS 164.6017, the Kentucky Science and Technology Corporation shall submit an annual plan dealing with the allocation of funds from the Science and Technology Funding Program, excluding funds for the Knowledge-Based Economy Academic Programs, for review and approval by the Council on Postsecondary Education and the Office of the New Economy prior to the Council on Postsecondary Education executing a contract with the Corporation to administer Science and Technology Funding Programs.

Loan repayments received by the High-Technology Construction and High-Technology Investment Pools are appropriated in addition to amounts specified in Part II.

14. FINANCIAL INCENTIVES

Notwithstanding KRS 154.20-267, the total amount of Kentucky Investment Fund Act (KIFA) tax credits available to any single investment fund shall not exceed, in aggregate, $1,000,000 for all investors and all taxable years. Notwithstanding KRS 154.20-267, the total Kentucky Investment Fund Act (KIFA) tax credits available for all investors in all investment funds shall not exceed $3,000,000 per fiscal year.

The Department of Financial Incentives shall submit for approval by the Commissioner of the Office of the New Economy all contracts resulting from action taken by the Kentucky Economic Development Finance Authority based on recommendations made by the Commissioner of the Office of the New Economy.

Those projects recommended by the Commissioner for the New Economy to support knowledge-based economy initiatives shall be acted upon by the authority within sixty (60) days following the recommendation by the Commissioner.

DEPARTMENT OF EDUCATION

15. SUPPORT EDUCATION EXCELLENCE IN KENTUCKY (SEEK) PROGRAM

a. Allocation of Support Education Excellence in Kentucky Funds: The General Fund appropriations to the base Support Education Excellence in Kentucky (SEEK) program are intended to provide a base guarantee of $3,116 per student in average daily attendance in fiscal year 2002-2003 and $3,201 per student in average daily attendance in fiscal year 2003-2004 as well as to meet the other requirements of KRS 157.360, notwithstanding KRS 157.360(2)(c).

Nothing in this legislation shall be construed as prohibiting the contracting out of pupil transportation services.

Funds appropriated to the Support Education Excellence in Kentucky program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. The total appropriation for the Support Education Excellence in Kentucky (SEEK) program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 to 157.440. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, upon the written request of the Commissioner of Education and with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the cited sections of the Kentucky Revised Statutes, but any increase of the total appropriation to the Support Education Excellence in Kentucky program is subject to Part III, General Provisions, of this Act, and the provisions of KRS Chapter 48. If funds appropriated to the Support Education Excellence in Kentucky program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, allotments to local school districts may be reduced in accordance with KRS 157.430.

b. Certified and Classified Staff Cost of Living Adjustments: The General Assembly encourages local school districts to provide a two and seven-tenths percent (2.7%) cost-of-living adjustment to certified and classified employees in FY 2002-03.

c. Consumer Price Index: For purposes of implementing the provisions of KRS 157.420, the percent increase in the average annual Consumer Price Index for all urban consumers between the two most recent calendar years refers to calendar year 2001 compared to calendar year 2000; the resulting two and eight tenths percent (2.8%) increase shall be applicable in fiscal year 2002-2003 and fiscal year 2003-2004.

d. SEEK Over Appropriation: Funds allocated for the SEEK base and its adjustment factors that are not needed for the base or a particular adjustment factor may be allocated to other adjustment factors, if funds for that adjustment factor are not sufficient. Excess funds that exist after the SEEK base and all SEEK adjustment factors have been fully funded shall be reallocated for the purpose of providing additional SEEK funding to local school districts. The reallocation of excess funds shall be in accordance with 702 KAR 3:270 promulgated under KRS 157.310 to KRS 157.440. Supplemental SEEK payments during fiscal biennium 2002-2004 shall not become part of the continuing SEEK base. The Governor, upon the written recommendation of the Secretary of the Finance and Administration Cabinet and the written request of the Commissioner of Education, shall certify that excess funds are available.

e. Final SEEK Calculation: Notwithstanding KRS 157.410, on or before March 1 of each year the chief state school officer shall determine the exact amount of the public common school fund to which each district is entitled and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of final calculation and for each successive month thereafter.

f. Local Revenue: Notwithstanding KRS 160.470(1), all local school districts shall be permitted to levy a tax rate for calendar year 2002 and 2003 that does not produce four percent (4%) more revenue than the compensating tax rate as defined in KRS 132.010.

16. EXECUTIVE POLICY AND MANAGEMENT

a. Employment of Personnel: Notwithstanding KRS 18A.115, the Department of Education may fill, through memoranda of agreement, not more than fifty percent (50%) of its existing authorized positions below the division director level with individuals employed as school administrators and educators in Kentucky.

b. Employment of Leadership Personnel: Notwithstanding KRS 18A.005 to 18A.200, the Kentucky Board of Education shall continue to have sole authority to determine the employees of the Department of Education who are exempt from the classified service and to set their compensation comparable to the competitive market.

c. Medicaid Reimbursement Funds: The Department of Education is authorized to implement a strategy, in conjunction with local school districts and the Department for Medicaid Services within the Cabinet for Health Services, to maximize federal reimbursement under the Medicaid program for Medicaid eligible administrative functions performed by elementary and secondary school faculty, staff, and administrators. Any increase in federal reimbursement attributable to such a strategy shall not be expended by the Department of Education or Cabinet for Health Services, Medicaid Services but shall be accumulated pending action and review by the 2003 Regular Session of the General Assembly.

17. LEARNING AND RESULTS SERVICES

a. Funding for Employer Health and Life Insurance and Retirement Contributions: If the costs for health insurance or life insurance coverage for employees of local school districts exceed the levels of appropriated funds, any unexpended Support Education Excellence in Kentucky appropriations may be used to offset the unbudgeted costs. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. If the appropriations for either local school district teachers' retirement employer match or local district health and life insurance fall short of statutory requirements, any surplus funds from the other appropriation unit may be transferred to the appropriation unit experiencing the shortfall. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. Notwithstanding the provisions of KRS 45.229, any unexpended local school district teachers' retirement employer match funds shall not lapse at the end of fiscal year 2002-2003 but shall be available if needed in fiscal year 2003-2004. Included within the General Fund appropriation for local school district employee health and life insurance is funding to cover costs associated with the Personnel Cabinet's administrative activities including providing life and health insurance for local school district employees. Accordingly, the sum of $4 per month per employee participating in the state-provided life and health insurance program in fiscal year 2002-2003 and $4 per month per employee participating in the state-provided life and health insurance program in fiscal year 2003-2004 shall be remitted to the Personnel Cabinet by the Department of Education from the General Fund appropriation for local school district health and life insurance.

b. Kentucky Education Technology System: Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650 to 157.665, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Kentucky Department of Education, shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds.

c. Family Resource and Youth Services Centers: Funds appropriated to establish and support Family Resource and Youth Services Centers shall be transferred in fiscal year 2002-2003 and in fiscal year 2003-2004 to the Cabinet for Families and Children consistent with the intent of KRS 156.497. The Cabinet for Families and Children is authorized to use, for administrative purposes, no more than three percent (3%) of the total funds transferred from the Department of Education for the Family Resource and Youth Services Centers. If a certified person is employed as a director or coordinator of a Family Resource or Youth Services Center, that person shall retain his or her status as a certified employee of the school district.

If seventy percent (70%) or more of the funding level provided by the state is utilized to support the salary of the director of a center, that center shall provide a report to the Cabinet for Families and Children identifying the salary of the director. The Cabinet for Families and Children shall transmit any reports received from Family Resource and Youth Service Centers pursuant to this provision to the Legislative Research Commission.

d. Area Centers and Vocational Departments Funding Formula: All funds appropriated in the budget for supplementing the programs and operations of the area centers and vocational departments of the following districts shall be distributed by a weighted formula that is promulgated in an administrative regulation by the Kentucky Board of Education: Allen County, Ballard County, Bowling Green Independent, Boyd County, Carter County, Christian County, Covington Independent, Edmonson County, Fayette County, Fleming County, Franklin County, Grayson County, Henderson County, Lawrence County, Lewis County, Livingston County, Magoffin County, Marshall County, McCreary County, Newport Independent, Powell County, Simpson County, Trigg County, Union County, and Jefferson County. The weighted formula shall take into consideration the different costs of programs based on requirements for facilities, materials, and equipment to meet program standards, the number of students enrolled, and the number of hours students are enrolled. If the funding formula results in a reduction of funds from the fiscal year 2001-2002 allocation for a center or department that has maintained the same number and category of programs and meets all other criteria, the center shall receive no less than seventy percent (70%) of its fiscal year 2001-2002 allocation.

e. School Rewards Trust Fund: Distribution of rewards to local schools shall be based on policy established by the Kentucky Board of Education.

f. Kentucky Education Technology System: The School for the Deaf and the School for the Blind shall be fully eligible, along with local school districts, to participate in the Kentucky Education Technology System in a manner that takes into account the special needs of the students of these two (2) schools.

g. Allocation of Safe School Funds: Notwithstanding KRS 158.446, the General Fund appropriations in this Act in Part I, D., Section 32, Learning and Results Services, the Center for School Safety shall develop and implement allotment policies for all moneys received for the purposes of KRS 158.440 to 158.442 and KRS 158.445 to 158.446.

h. Gifted and Talented Funds: All moneys appropriated for the Gifted and Talented Program shall be expended by local school districts solely for purposes and activities relating to the Gifted and Talented Program.

EDUCATION, ARTS, AND HUMANITIES

18. TEACHERS' RETIREMENT SYSTEM

a. Highly Skilled Educators' Retirement Benefits: Notwithstanding KRS Chapter 158 and KRS Chapter 161, salary supplements received by persons selected as highly skilled educators on or after July 1, 2000, shall not be included in the total salary compensation for any retirement benefits to which the employee may be entitled.

19. SCHOOL FACILITIES CONSTRUCTION COMMISSION

a. Local Districts Facilities Plans: Notwithstanding the provisions of KRS 157.622(3), funds allocated by the School Facilities Construction Commission to local school districts for fiscal year 2002-2003 and fiscal year 2003-2004 shall be applied to the projects listed in the most current facility plan approved for the district by the Kentucky Board of Education and the funds shall be applied to projects in the priority order listed in the plan.

b. Offers of Assistance: Notwithstanding KRS 157.622(5), a local school district may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed six (6) years.

c. School Operations: School #840, a historical community school in district #175, shall not be closed or substantially changed.

20. KENTUCKY HISTORICAL SOCIETY

a. Cemetery Preservation: Restricted Funds of $2,200,000 attributable to Multi-State Consumer Protection Lawsuit Settlement Proceeds shall be transferred to the Kentucky Historic Cemetery Preservation Program Fund established by House Bill 572, "An Act relating to cemeteries," as considered by the 2002 Regular Session of the General Assembly. In fiscal year 2002-2003, $1,450,000 is appropriated from these funds in the form of grants pursuant to the Kentucky Historic Cemetery Preservation Program established in House Bill 572. In fiscal year 2003-2004, $250,000 is appropriated from these funds for the Historic Cemetery Preservation Program. The remaining unappropriated Restricted Funds transferred to the Historic Cemetery Preservation Program Fund shall not lapse and shall carry forward from each fiscal year to the succeeding fiscal year. Included within the above appropriated amounts $1,200,000 shall be made available to the Louisville/Jefferson County Cemetery Preservation initiative upon certification to the Board of the Historic Cemetery Preservation Program Fund that $800,000 in local cash matching resources has been raised. The City of Louisville shall administer this initiative. Also included within the above appropriated amounts is $250,000 in each fiscal year of the biennium for cemetery preservation grants to be approved by the Board created by House Bill 572 subject to a dollar for dollar cash or non-cash match certified to the Board from individual public or private grant applicants.

Notwithstanding the provisions of KRS 42.500, the Kentucky Historical Society may expend interest earnings from the Kentucky Historic Cemetery Preservation Program Fund for program administration upon application to and approval from the State Budget Director whose approval shall be reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.630. Funds credited to the Historic Cemetery Preservation Program Fund shall be invested by the Finance and Administration Cabinet according to existing law.

21. DEPARTMENT FOR LIBRARIES AND ARCHIVES

a. Undistributed moneys: Notwithstanding KRS 48.005, undistributed moneys received by a result of litigation with a book supplier shall be appropriated to the Department of Libraries and Archives for the benefit of libraries in the Commonwealth.

CABINET FOR FAMILIES AND CHILDREN

22. CABINET WIDE

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the Statutory Budget Memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet. Phase I Tobacco Settlement funds appropriated to the Cabinet may be used as state match to maximize Federal Funds available through the Child Care Development Fund.

b. Human Services Transportation Delivery: Notwithstanding KRS 281.014, KRS 281.870, KRS 281.872 or any other statute or provision of the law to the contrary, the Cabinet for Families and Children shall not participate in the Human Services Transportation Delivery program or the Coordinated Transportation Advisory Committee effective July 1, 2002.

23. COMMUNITY BASED SERVICES

a. Education for Recipients of Public Assistance: The Department for Community Based Services shall make available to a minimum of seven (7%) percent of total adult public assistance recipients placements in Postsecondary or Vocational education. The recipients shall receive all support services provided to employed public assistance recipients including transportation and child care. The funding source shall be determined by the Cabinet for Families and Children. Work requirements shall include those required by the postsecondary or vocational educational placement as part of the required program of study or financial assistance. If allowable by Federal regulations related to Welfare Reform work participation rates, work requirements shall be limited to those required by the postsecondary or vocational educational placement as part of the required program of study or financial assistance.

b. Notwithstanding KRS 200.151, 2000 Ky. Acts, ch. 549, Part XI, B.2.a., and any other provisions in this Act, Phase I Tobacco Settlement Funds in the amount of $1,500,000 shall lapse to the General Fund at the close of fiscal year 2001-2002.

c. Severely Emotionally Disturbed Children: Included in the General Fund appropriation is $600,000 in fiscal year 2002-2003 and $600,000 in fiscal 2003- 2004 to provide services for state-committed severely emotionally disturbed children.

d. Child Support Contracting Officials: Included in the appropriations is support for Child Support Contracting Officials to be maintained at the fiscal year 2001-2002 total contracted level of $33,185,100. Up to $1,000,000 in fiscal year 2002-2003 and $1,000,000 in fiscal year 2003-2004 of Child Support Performance Award Funds may be utilized in the Child Support Contracting Officials Contracts to maximize Federal Funds. Funds for individual contracts will be allocated based on spending and performance patterns utilizing an equity plan negotiated between the Cabinet for Families and Children and the County Attorney Association.

HEALTH SERVICES

24. CABINET FOR HEALTH SERVICES

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the Statutory Budget Memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet.

25. MEDICAID ADMINISTRATION

a. Transfer of General Fund or Restricted Funds from Medicaid Benefits to Medicaid Administration: It is the intent of the General Assembly that the Secretary of the Cabinet for Health Services be permitted to transfer from Medicaid Benefits to Medicaid Administration a total of up to $3,500,000 over the biennium of the General Fund or Restricted Funds appropriations from the Medicaid Benefits budget to the Medicaid Administration budget to be used for technical assistance and costs associated with achieving Health Insurance Portability and Accountability Act (HIPAA) compliance for the Medicaid Management Information System. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Upon concurrence of the State Budget Director and prior to the transfer, the Secretary shall present the proposed plan to the Interim Joint Committee on Appropriations and Revenue.

b. Kentucky Patient Access to Care Program (KenPAC) Reimbursement: The Medicaid Benefits Budget includes funds to continue an Enhanced Kentucky Patient Access to Care Program (KenPAC) with reimbursement to gatekeeper providers on a sliding scale of $3 to $9 per member per month based upon performance and quality criteria. The Department for Medicaid Services shall promulgate administrative regulations which reflects this Act.

c. Medicaid Service Category Expenditure Information: No Medicaid managed care contract shall be valid, and no payment to a Medicaid managed care vendor by the Finance and Administration Cabinet or Cabinet for Health Services shall be made, until the Medicaid managed care contract contains a provision that the contractor shall collect Medicaid expenditure data by the categories of services paid for by the Medicaid program. Actual statewide Medicaid expenditure data by all categories of Medicaid services, including mandated and optional Medicaid services, special expenditures/offsets, and Disproportionate Share Hospital payments by type of hospital, shall be compiled by the Department for Medicaid Services for all Medicaid providers and forwarded to the Interim Joint Committee on Appropriations and Revenue on a quarterly basis. Projections of Medicaid expenditures by categories of Medicaid services shall be provided to the Interim Joint Committee on Appropriations and Revenue upon request.

d. Administrative Service Organization: The Department for Medicaid Services shall, no later than July 1, 2002, initiate a formal procurement process, pursuant to KRS Chapter 45, to contract with an Administrative Service Organization (ASO). This organization shall assist with the administration of the Kentucky Access to Patient Care Program (KenPAC) for all geographic areas of the Commonwealth except those areas covered by the Region III Medicaid Partnership (Passport Health Plan). Responsibilities of the ASO shall include, but not be limited to: data collection and analysis for purposes of utilization management of KenPAC services; client education and assignment; provider recruitment and education; physician profiling including an analysis of cost and utilization by category of service (i.e. inpatient, outpatient, emergency room (ER), laboratory, ambulatory, pharmacy and home health) and an analysis of cost by diagnoses codes for peer comparisons of utilization; support services for KenPAC primary care providers including disease management, a help desk for the management of ER services, and the restructuring of payment methodologies to align with utilization management goals; the design and management of provider incentives; and measures to assure program integrity and management of the lock-in program. Using improved data collection methods, the ASO shall focus on cost containment and utilization management for all KenPAC services including hospital, home health, pharmacy, durable medical equipment and diagnostics, with a special emphasis on the management of care for high cost utilizers. In order to monitor the effectiveness of managed care through the Primary Care Case Management KenPAC model, an annual report shall be prepared which shall include, but not be limited to, patient-centered measures and an analysis utilizing the National Committee for Quality Assurance Health Plan Employer Data and Information Set (HEDIS) quality and use of services measures. HEDIS measures currently include: childhood immunization status, adolescent immunization status, breast cancer screening, cervical cancer screening, chlamydia screening for women, controlling high blood pressure, beta-blocker treatment after a heart attack, cholesterol management after acute cardiovascular events, comprehensive diabetes care, the use of appropriate medications for persons with asthma, follow-up after hospitalization for mental illness, antidepressant medication management, advising smokers to quit, adults' access to preventive/ambulatory health services, childrens' access to primary care practitioners, prenatal and postpartum care, annual dental visits, practitioner turnover, the frequency of on-going prenatal care, well-child visits in the first 15 months of life, well-child visits in the third, fourth, fifth and sixth year of life, adolescent well-care visits, the frequency of selected procedures, inpatient utilization of general hospital/acute care, ambulatory care (includes ER), inpatient utilization of non-acute care, discharge policies and average length of stay for maternity care, cesarean section, vaginal birth after cesarean section birth rate (VBAC rate), births and average length of stay for newborns, mental health utilization - inpatient discharges and average lengths of stay, mental health utilization - the percentage of members receiving services, chemical dependency utilization - inpatient discharges and average lengths of stay, chemical dependency utilization - percentage of members receiving services and outpatient drug utilization. The annual report shall also include an evaluation of provider-centered measures; the success of an analysis of physician profiling, including financial profiling, and case-mix adjusted profiling; trend rates of the utilization of all KenPAC services; provider surveys; and cost containment realization. The annual report shall also profile patient population measures and trends, including eligibility by age, gender and eligibility category. To the extent possible, the annual report shall also include comparisons to similar programs in peer states, particularly the southern region.

e. Nursing Facility Reimbursement Review: The Cabinet for Health Services shall review the current reimbursement methodology for nursing facility services to determine if current price-based methodology reflects actual direct nursing care costs and promotes quality long term care. The Cabinet shall include the following organizations in this study panel: Kentucky Hospital Association, Kentucky Association of Homes and Services for the Aging, and the Kentucky Association of Health Care Facilities. The report shall be due to the Legislative Research Commission and the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Health and Welfare by December 1, 2002.

26. MEDICAID SERVICES - BENEFITS

a. Disproportionate Share Program: Hospitals shall report indigent inpatient and outpatient care for which, under federal law, the hospital is eligible to receive disproportionate share payments.

b. Hospital Indigent Patient Billing: Hospitals shall not bill patients for services where the services have been reported to the Cabinet and the hospital has received disproportionate share payments for the specific services.

c. Provider Tax Information: Any provider who posts a sign or includes information on customer receipts or any material distributed for public consumption indicating that they have paid provider tax shall also post, in the same size typeset as the provider tax information, the amount of payment received from the Department for Medicaid Services during the same period the provider tax was paid. Providers who fail to meet this requirement shall be excluded from the Disproportionate Share Hospital and Medicaid Program. The Office of Inspector General, Division of Community Health Services, shall include this provision in facilities' annual licensure inspection.

d. Disproportionate Share Hospital Payments: Disproportionate Share Hospital payments shall not exceed the maximum amounts established in the federal law.

e. Quality and Charity Care Trust Fund: No hospital may be reimbursed from both the Quality and Charity Care Trust Fund and the Disproportionate Share Program (DSH) for the same service to the same patient. Any hospital that willfully violates this provision shall be subject to a penalty equal to three (3) times the amount of the improper charge to the funds, which amount shall be credited to the General Fund. The Secretary of the Cabinet for Health Services shall have the authority to secure the patient information as needed from the participating facilities in order to determine compliance and enforce this provision. Each facility billing and receiving reimbursements from the Quality and Charity Care Trust Fund shall be required to identify each patient by Social Security number and indicate whether the patient is classified as indigent or medically needy. Notwithstanding any other provision of this Act or law, in any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement so agree, the General Fund appropriation to fulfill the Commonwealth's contractual obligation relating to the Quality and Charity Care Trust Agreement or any portion thereof, together with any other funds paid to the Quality and Charity Care Trust contractual obligation of the parties, or any portion thereof, shall be transferred to the Department for Medicaid Services as part of its Restricted Funds appropriation for Benefits. In any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement do not agree to transfer all or any portion of the Trust's revenues to the Department of Medicaid Services for Benefits, the Quality and Charity Care Trust shall operate pursuant to its contractual provisions.

f. Kentucky Children's Health Insurance Program: It is the intent of the General Assembly that the Secretary of the Cabinet for Health Services be permitted to transfer from the Medicaid Benefits to the Kentucky Children's Health Insurance Program (KCHIP) General Fund or Restricted Funds appropriations to be used to match the Federal allocation. These transfers may be made to cover both additional regular allocations and redistribution from the federal government. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Upon concurrence of the State Budget Director and prior to the transfer, the Secretary shall make the appropriate appropriation increase request.

g. Intergovernmental Transfers (IGT's): It is the intent of the General Assembly that any funds received through an intergovernmental transfer agreement between the Department of Medicaid Services and other governmental entities, in accordance with a federally approved state plan amendment shall be used to provide for the health and welfare of the citizens of the Commonwealth through the provision of Medicaid Benefits. This allocation shall include but not be limited to funds generated through transfer agreements with county-owned nursing homes, county-owned hospitals, state universities, and other governmental agencies. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Revenues from Intergovernmental Transfers are contingent upon agreement by the parties and, when negotiated, the Secretary shall make the appropriations increase requests pursuant to KRS 48.630.

h. Child Sexual Abuse Exams: The Department for Medicaid Services shall develop a reimbursement schedule to compensate participating health care providers for the full cost of providing child sexual abuse examinations for eligible children to the extent funds are available, effective July 1, 2000. The provisions of this section shall not mandate any services or payments that are not otherwise provided in the Medicaid Benefits budget in Part I, Operating Budget. The reimbursement schedule shall not be reduced under any Managed Care Agreement. The Department may require participating health care providers to meet specific training and experience requirements.

i. Medicaid Budget Analysis Reports: The Department for Medicaid Services shall submit a quarterly budget analysis report to the Interim Joint Committee on Appropriations and Revenue. The report shall provide monthly detail of actual expenditures, eligibles, and average monthly cost per eligible by eligibility category along with current trailing 12 month averages for each of these figures. The report shall also provide actual figures for all categories of noneligible-specific expenditures such as Supplemental Medical Insurance premiums, Kentucky Patient Access to Care, nonemergency transportation, drug rebates, cost settlements, and Disproportionate Share Hospital payments by type of hospital. The report shall compare the actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur.

j. Medicaid Benefits Budget Deficit: In the event Medicaid Benefits expenditures are projected to exceed available funds, the Secretary of the Cabinet for Health Services shall be empowered to recommend reimbursement rates, optional services, eligibles, or programs be reduced or maintained at levels existing at the time of the projected deficit in order to avoid a budget deficit. The projected deficit shall be confirmed by the Governor's Office of Economic Analysis and communicated to the Medicaid Steering Committee. No service, eligible, or program reductions shall be implemented without prior review by the Interim Joint Committee on Appropriations and Revenue and written approval of the State Budget Director. If the Interim Joint Committee on Appropriations and Revenue objects to the recommendations of the Secretary of the Cabinet for Health Services, the recommendations shall be invalid unless they are:

(a) Revised to comply with the objections of the committee; or

(b) The committee is informed in writing, in detail, within thirty (30) days of the committee's objections that a determination has been made not to comply with the objections of the committee.

k. Medicaid Benefits Budget Surplus: In the event Medicaid Benefits expenditures are less than available funds, the Secretary of the Cabinet for Health Services may recommend the utilization of available funds to increase reimbursement rates, expand the Medicaid program or the number of eligibles, or transfer General Fund up to the amount of the excess Restricted Funds to other agencies within the Cabinet to be utilized for direct services to eligibles or clients. No reimbursement rate, service, eligible or program shall be increased without prior communication to the Medicaid Steering Committee and written approval of the State Budget Director and review by the Interim Joint Committee on Appropriations and Revenue. If the Interim Joint Committee on Appropriations and Revenue objects to the recommendations of the Secretary of the Cabinet for Health Services, the recommendations shall be invalid unless they are:

(a) Revised to comply with the objections of the committee; or

(b) The committee is informed in writing, in detail, within thirty (30) days of the committee's objections that a determination has been made not to comply with the objections of the committee.

l. Breast and Cervical Cancer Treatment Program: The Department for Medicaid Services shall request a plan amendment from the Centers for Medicare and Medicaid Services to extend coverage to uninsured women who are under age 65, not otherwise eligible for Medicaid, have breast or cervical cancer as diagnosed through a recognized screening program, need treatment for breast or cervical cancer and meet any other eligibility criteria established under the Federal Breast and Cervical Prevention and Treatment Act of 2000. Medical assistance for breast or cervical cancer, or precancerous conditions, shall be limited to treatment until a cure or remission is achieved. Medical assistance shall be reinstituted for any subsequent periods of recurrence or metastasis or any future conditions establishing eligibility under this Act. This program may accept gifts, grants, and bequests in support of its mission and duties specified in this Act. All money received shall be administered by the Cabinet, which shall administer these funds through appropriate trust and agency accounts. The Department of Medicaid Services shall promulgate administrative regulations to implement this program within three (3) months of federal approval of the state plan amendment.

m. Pervasive Developmental Disorders: As used in this Act, "pervasive developmental disorders" has the same meaning as in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV). The term includes five (5) diagnostic subcategories: 1) Autistic disorder; 2) Pervasive disorder not otherwise specified; 3) Asperger's disorder; 4) Rett's disorder; and, 5) Childhood disintegrative disorder. The Department for Medicaid Services shall make application, within three (3) months of the effective date of this Act, to the federal Centers for Medicare and Medicaid Services for a waiver to provide services and supports to individuals who: 1) are Medicaid eligible; 2) have an Axis I diagnosis of a pervasive developmental disorder; 3) are institutionalized or at risk for institutionalization; and 4) require a coordinated plan of medically necessary community-based behavioral health services. The waiver application shall include services that are documented to be effective in the treatment of pervasive developmental disorders and consistent with clinical best practices. The waiver application shall specify the required credentials for the providers of each service. The Cabinet for Health Services shall capitate the number of children served under the waiver program to insure budget neutrality based upon the expenditures for children with Pervasive Developmental Disorders that were served under the IMPACT Plus Program during fiscal years 2001-2002. The Cabinet shall include in the waiver application those items that are necessary to ensure the waiver operates within the designated dollars including, but not limited to, a maximum number of individuals to be served and a maximum dollar amount that can be expended for an individual. The waiver shall be coordinated with and shall not supplant services provided by schools under KRS Chapter 157 or services provided under KRS Chapters 200 and 347. Nothing in this section shall affect or limit a school district's ability to obtain Medicaid reimbursement for school-related health services. The Department for Medicaid Services shall report by December 1, 2002, to the Governor, the Legislative Research Commission, and the Interim Joint Committee on Health and Welfare on the number of individuals receiving services under the waiver, the cost and type of services received, and any available nonidentifying information pertaining to individual outcomes. The waiver shall also include Social skill development and behavioral therapy services to infants and toddlers with a diagnosis of pervasive developmental disorders.

n. Supports for Community Living Waiver: Supports for Community Living Waiver funds shall be appropriated only for direct services to qualified Supports for Community Living Waiver recipients, and any unexpended funds shall not lapse but shall be carried-forward to the next fiscal year for the same purpose.

27. DEPARTMENT FOR PUBLIC HEALTH

a. Notwithstanding KRS 200.151, 2000 Ky. Acts, ch. 549, Part XI, B.3.a., and any other provisions in this Act, Phase I Tobacco Settlement Funds in the amount of $1,500,000 shall lapse to the General Fund at the close of fiscal year 2001-2002.

b. Abstinence Education: The Department shall use Federal Funds and state matching funds under Title V of the Federal Social Security Act, 42 U.S.C. sec. 710, in the following manner: Ninety-five percent (95%) shall be used for community-based grants to institute abstinence education programs; five percent (5%) shall be used to administer and evaluate the effectiveness of the program; and, if funds are available after funding community-based programs, the remainder shall be used to promote abstinence education by other means, including an advertising and marketing campaign.

c. Ovarian Cancer Screening Program: Included in the appropriation for the University of Kentucky is $103,800 in FY 2002-03 and $103,800 in FY 2003-04 for the Ovarian Cancer Screening Program. Also included in the University of Kentucky appropriation is $700,000 each fiscal year for the Ovarian Cancer Screening Outreach Program. This program may accept gifts, grants, and bequests in support of its mission and duties specified in this Act. All money received shall be administered by the University of Kentucky, which shall administer these funds through appropriate trust and agency accounts.

28. DEPARTMENT FOR MENTAL HEALTH/MENTAL RETARDATION

a. Disproportionate Share Hospital Funds: Mental health disproportionate share funds are budgeted at the maximum amounts permitted by the Balanced Budget Act of 1997, as amended by the Benefits Improvements and Protection Act of 2000, in the amount of $36,620,100 in fiscal year 2002-2003 and $37,718,700 in fiscal year 2003-2004.

b. Restricted Funds Carry Forward: Any unbudgeted Restricted Funds which carry forward in fiscal year 2002-2003 or fiscal year 2003-04 in the Department for Mental Health/Mental Retardation may be used for grants to Community Mental Health Centers.

c. Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders: Notwithstanding KRS 210.504, the Department for Mental Health/Mental Retardation shall provide at least $12,500 each fiscal year to be distributed to support the continued operation of the 14 regional planning councils and support for Commission activities relating to the mandates of HB 843, as enacted by the 2000 General Assembly, through June 30, 2004. The regional planning councils shall make recommendations for, and the Commission shall develop, a two (2) year work plan for specifying goals and strategies relating to services and supports for individuals with mental illness and alcohol and other drug disorders and dual diagnoses, and efforts to reduce the stigma associated with mental illness and other substance abuse disorders. The Commission shall report workgroup activities and findings to the Governor and Interim Joint Committee on Health and Welfare by December 1 of each year.

d. Jailer Mental Health Screening Training: The Kentucky Commission on Services to Individuals with Mental Illness, Alcohol and Other Drug Related Disorders, and Dual Diagnoses shall, in its annual review of the Commission plan, shall include in its duties the development of recommendations for identifying, treating, housing and transporting prisoners in jails and juveniles in detention centers with mental illness. Items to be reviewed shall include, but not be limited to, recommendations for statutory and regulatory changes, training and treatment funding, cost sharing, housing and transportation costs, appropriate treatment sites and training requirements for local jailers and other officers of the court who may come in contact with persons incarcerated or in detention but deemed mentally ill. The Department for Mental Health/Mental Retardation, Department for Juvenile Justice and Department for Corrections shall collaborate with the Commission to recommend guidelines and practices to be implemented in regard to training local jailers and appropriate staff on identifying conditions which may require the screening of prisoners or juveniles by appropriate mental health professionals. The Commission shall submit its reports and findings to the Jail Standards Commission and Legislative Research Commission, to be distributed to appropriate committees, by November 1, 2002.

e. Castlewood Prader Willis Syndrome Group Home: The contract for the operation of the Castlewood Prader Willis Syndrome Group Home shall equal at least $233,000 in each fiscal year, absent any pass-throughs to any other entities.

29. COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS

a. Kentucky Early Intervention System Analysis Reports: The Department for Mental Health/Mental Retardation shall submit a quarterly budget analysis report for the Kentucky Early Intervention Services program to the Interim Joint Committee on Appropriations and Revenue. The report shall provide the number of children enrolled, the average number of service units by category of service, and the average cost per service, by category of services, and compare actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur.

30. CERTIFICATE OF NEED

a. Voluntary Relinquishment of a Certificate of Need or Licensure: For thirty-six (36) months following the voluntary closure, revocation of a certificate of need, or the revocation of licensure, the beds, equipment, and services provided by the closed facility shall be reserved for applications for any certificate of need to reestablish the same services, in whole or part, in the same county as the closed health facility.

31. AGING SERVICES

a. Local Match Requirements: Notwithstanding KRS 205.460, entities contracting with the Cabinet for Health Services to provide essential services under KRS 205.455 and this provision shall provide local match equal to or greater than the amount in effect during fiscal year 2001-2002. Local match may include any combination of materials, commodities, transportation, office space, personal services, or other types of facility services or funds. The Secretary of the Cabinet for Health Services shall prescribe the procedures to certify the local match assurance.

JUSTICE

32. JUSTICE ADMINISTRATION

a. Construction Training Program: General Fund moneys appropriated to the Urban League of Lexington-Fayette County Construction Training Program in fiscal year 2002-2003 shall be used to match federal Byrne Grant funds. The Secretary of Justice shall supplement the General Fund appropriation with federal funds up to a combined total of $300,000 each fiscal year if the program meets the federal grant guidelines of grants administered by the Justice Cabinet. All moneys appropriated that cannot be utilized to match federal grants moneys shall be provided to the Urban League of Lexington Fayette County Construction Training Program in the form of a grant to continue its activities. The Urban League of Lexington-Fayette County shall report annually on the expenditures of state and federal funds provided through this Act to the Interim Joint Committee on Appropriations and Revenue and the Office of the Secretary in the Justice Cabinet. The Urban League of Lexington-Fayette County shall be subject to any federal grant requirements that are required upon receiving federal moneys.

33. STATE POLICE

a. State/Local Emergency Phone Service Agreement: The Department of State Police may enter into agreements with the governing body of the city, county, urban-county government, or any combination thereof, to provide 911 emergency telephone service.

34. JUVENILE JUSTICE

a. Juvenile Detention: Notwithstanding any provision in the Juvenile Code or any regulation promulgated thereunder to the contrary, a child who is committed to the Department of Juvenile Justice and detained in a secure detention facility, juvenile holding facility, or intermittent holding facility shall be so detained in the county where the court committed the child, regardless of whether such facility is state operated. Provided however, that a county owned juvenile holding facility may elect not to accept the child and a court may, in the best interest of the child, place the child in a facility in another county. Reimbursement by the Department of Juvenile Justice shall be as provided for in KRS 635.060(3) and in Section I of this Act.

b. Juvenile Justice Grant: Included in the General Fund appropriations in Part I, Operating Budget, Section H. Justice Cabinet, Juvenile Justice is $35,000 in fiscal year 2002-03 and $35,000 in fiscal year 2003-04 to support the Survivor's II Program in Fayette County.

35. CORRECTIONS MANAGEMENT

a. Appropriation Adjustments: The General Assembly has determined that the Department of Corrections shall be permitted to adjust appropriations between and among the following appropriation units in fiscal year 2002-2003 and in fiscal year 2003-2004; community services and local facilities and adult correctional institutions. Only adjustments necessary to manage the diverse mix of inmate classifications, custody levels, probation and parole caseloads, and population increases and/or decreases shall be permitted. Any appropriations transferred or otherwise directed between and among these appropriation units shall be documented and justified in writing. No adjustments may be made except upon the prior written justification to the Interim Joint Committee on Appropriations and Revenue and written concurrence of the State Budget Director of the Governor's Office for Policy and Management. The State Budget Director of the Governor's Office of Policy and Management shall report such adjustments and the necessity of the adjustment to the Interim Joint Committee on Appropriations and Revenue.

b. Jailer Mental Health Screening Training: The Kentucky Commission on Services to Individuals with Mental Illness, Alcohol and Other Drug Related Disorders, and Dual Diagnoses shall, in its annual review of the Commission plan, shall include in its duties the development of recommendations for identifying, treating, housing and transporting prisoners in jails and juveniles with mental illness in detention centers. Items to be reviewed shall include, but not be limited to, recommendations for statutory and regulatory changes, training and treatment funding, cost sharing, housing and transportation costs, appropriate treatment sites and training requirements for local jailers and other officers of the court who may come in contact with persons incarcerated or in detention but deemed mentally ill. The Department for Mental Health/Mental Retardation, Department for Juvenile Justice and Department for Corrections shall collaborate with the Commission to recommend guidelines and practices to be implemented in regard to training local jailers and appropriate staff on identifying conditions which may require the screening of prisoners or juveniles by appropriate mental health professionals. The Commission shall submit its reports and findings to the Legislative Research Commission, to be distributed to appropriate committees, by November 1, 2002. The report shall also be provided to the Jail Standards Commission.

36. COMMUNITY SERVICES AND LOCAL FACILITIES

a. Probation and Parole Credit: Notwithstanding KRS 439.344, the period of time spent on parole shall count as a part of the prisoner's remaining unexpired sentence, when it is used to determine a parolee's eligibility for a final discharge from parole as set out in KRS 439.354; or when a parolee is returned as a parole violator for a violation other than a new felony conviction.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

37. GENERAL ADMINISTRATION AND SUPPORT

a. Budget Administration: If the Secretary determines that the functions and responsibilities of the Surface Mining Reclamation and Enforcement budget unit can be performed with fewer positions than budgeted for the biennium, the positions and associated costs may be transferred to the General Administration and Support, Natural Resources, Environmental Protection, and Surface Mining Reclamation and Enforcement budget units for the purpose of employing essential positions, replacing or upgrading information technology equipment, and the replacement of vehicles. The Secretary shall present the proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to transferring any positions and funding.

b. NOx Credits: Within ten (10) days of the Natural Resources and Environmental Protection Cabinet's receipt of U.S. Environmental Protection Agency's approval of a revised State Implementation Plan complying with 40 C.F.R. 51.121 and authorizing the sale of NOx allowances, the Natural Resources and Environmental Protection Cabinet shall notify the Finance and Administration Cabinet. Upon such notification, the Finance and Administration Cabinet shall have the authority to execute the sale of the NOx allowances. The proceeds from the sale shall be credited to the General Fund and deposited into the State Treasury.

38. DEPARTMENT FOR ENVIRONMENTAL PROTECTION

a. Notwithstanding KRS 224.50-868, the new tire fee shall continue to be charged and collected in fiscal biennium 2002-2004.

b. Hazardous Waste Assessments: Notwithstanding KRS 224.46-580(7), hazardous waste assessments shall continue to be charged and collected in fiscal biennium 2002-2004.

c. Hazardous Waste Fund: Notwithstanding KRS 224.46-580, the Department is authorized to expend up to $25,000 from the Hazardous Waste Management Fund for the purposes of conducting an audit of the sources and amounts of income and expenditures from the fund.

39. DEPARTMENT FOR SURFACE MINING RECLAMATION AND ENFORCEMENT

a. Surface Coal Mining Permits: The permit block provisions of KRS 350.085(6) shall apply both to surface coal mining and reclamation operations owned or controlled by the applicant, and those operations owning or controlling the applicant. The Cabinet shall continue in effect the current state regulations regarding ownership and control provided that a due process hearing shall be afforded at the time that the Cabinet makes a preliminary determination to impose a permit block.

The Cabinet shall conditionally issue a permit, permit renewal, or authorization to conduct surface coal mining and reclamation operations, if the Cabinet finds that a direct administrative or judicial appeal is presently being pursued, in good faith, to contest the validity of the determination of ownership and control linkage. The Cabinet shall conditionally issue permits where the applicant submits proof, including a settlement agreement, that the violation is being abated to the satisfaction of the issuing state or federal agency. Where the initial judicial appeal affirms the ownership or control linkage, the applicant shall have thirty (30) days to submit proof that the violation has been or is in the process of being corrected. Nothing herein shall preclude the applicant from seeking further judicial relief. The reporting requirements of KRS 350.060(3) shall not extend to persons at the level above a publicly traded corporation who own or control the applicant.

40. ENVIRONMENTAL QUALITY COMMISSION

a. Administrative Accountability: The Environmental Quality Commission shall be attached to the Secretary's Office, but shall remain a separate budget unit. The Secretary, with the approval of the Commissioners of the Environmental Quality Commission, shall employ a director and other necessary Commission staff who shall serve at the pleasure of the Commission and the Secretary.

PUBLIC PROTECTION AND REGULATION

41. DEPARTMENT OF INSURANCE

a. Notwithstanding 2000 Ky. Acts ch. 549 Part V, 2., 3., the Fire and Tornado Fund shall transfer $500,000 in fiscal year 2002 to the General Fund.

42. SECRETARY'S OFFICE

a. Notwithstanding KRS 224.60-142, the registration time period shall be extended to July 15, 2004, for the owner of any petroleum underground storage tank containing motor fuels who can meet requirements for participation in the financial responsibility account as authorized in KRS 224.60-130(2)(c).

43. PUBLIC ADVOCACY

a. Compensatory Leave Conversion to Sick Leave: In the event that the Department of Public Advocacy has determined that a budget shortfall may occur, the Public Advocate is authorized to institute a policy to suspend payment of fifty (50) hours of compensatory leave and convert these hours to sick leave for those Attorneys who have accumulated two hundred forty hours (240) of compensatory time.

POSTSECONDARY EDUCATION

44. COUNCIL ON POSTSECONDARY EDUCATION

a. Research Challenge Trust Fund Account: The proceeds of the endowment match program authorized in Part II, under the Council on Postsecondary Education budget unit, project L.1.d., shall be invested at the direction of the Council on Postsecondary Education until such time as the Council receives a certification from the President of the University of Kentucky or from the President of the University of Louisville stating that formal commitments have been secured by the respective universities to provide the matching requirements as determined by the Council. Upon receipt of the certification, the Council shall transfer the endowment funds from the account to the respective universities for management and investment by the university foundations if the foundations have been previously created to manage and invest private gifts and donations on behalf of the universities over time, otherwise by the university itself. The proceeds of the Research Challenge Trust Fund Account transferred to the universities shall not be managed or invested by an independent board or foundation separate from the foundations previously created to manage and invest funds on behalf of the respective universities. Only the investment earnings from the endowments created or expanded with funds from the Research Challenge Trust Fund and any required matching funds may be expended.

b. Regional University Excellence Trust Fund: The proceeds of the endowment match program authorized in Part II, under the Council on Postsecondary Education budget unit, project L.1.e., shall be deposited in the Regional University Trust Fund Account and invested at the direction of the Council on Postsecondary Education until such time as the Council receives a certification from the Presidents of Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, and Western Kentucky University stating that formal commitments have been secured by the respective universities to provide the matching requirements as determined by the Council. Upon receipt of the certification, the Council shall transfer the endowment funds from the account to the respective universities for management and investment by the university foundations if the foundations have been previously created to manage and invest private gifts and donations on behalf of the universities over time, otherwise by the university itself. The proceeds of the Regional Excellence Trust Fund transferred to the universities shall not be managed or invested by an independent board or foundation separate from the foundations previously created to manage and invest funds on behalf of the respective universities. Only the investment earnings from the endowments created or expanded with funds from the Regional University Excellence Trust Fund and any required matching funds may be expended.

c. Enrollment Growth and Retention Funding Program:

The Council on Postsecondary Education (CPE) shall, by July 1, 2003, develop guidelines for the distribution of Enrollment Growth and Retention Funding program funds that may be requested during the 2004-2006 budget request process. The CPE shall develop the guidelines in collaboration with the University Presidents to ensure a fair and equitable plan for distribution that promotes the implementation of the Postsecondary Education Act of 1997. The guidelines shall be presented to the Strategic Committee on Postsecondary Education (SCOPE) for prior review before the final adoption by CPE.

d. Strategic Investment and Incentive Trust Funds Interest Income: Notwithstanding the provisions of KRS 164.7911 through 164.7927, interest earnings in the amount of $10,331,700 shall be transferred from the Strategic Investment and Incentive Trust Funds included under these statutes and the trust funds created by 2000 Ky. Acts Ch. 549, Part I, L, 56, to Agency Revenue accounts within the Council on Postsecondary Education budget unit. Transferred funds shall be allotted by the specified amounts for the related itemized purposes in the following priority sequence: (1) $750,000 in fiscal year 2003-2004 for Fiscal Affairs and Information Technology System at the University of Kentucky; (2) $1,500,000 in fiscal year 2003-2004 for the Teacher Education Model Program at the Educational Professional Standards Board; (3) $1,500,000 for the Kentucky Math and Science Academy at Western Kentucky University; (4) $100,800 in fiscal year 2002-2003 and $105,500 in fiscal year 2003-2004 for the Minority Student Preparation Program; (5) $187,000 in fiscal year 2002-2003 and $188,400 in fiscal year 2003-2004 for the Southern Regional Education Board Doctoral Scholars Program; (6) $1,000,000 in each year of the biennium for the Knowledge-Based Economy Academic Programs; (7) and $2,000,000 in fiscal year 2002-2003 for the Experimental Program to Stimulate Competitive Research (EPSCoR) Program; (8) $1,000,000 each year of the biennium for the Rural Innovation Program. If investment earnings are less than $10,331,700, allotments shall be made in sequence according to prioritized purposes and full related amount as listed until available total funds are distributed.

e. Kentucky Science and Technology Funding Program: Included in the appropriations to the Science and Technology Funding Program in Part I is $4,521,600 in each year of the biennium for the Experimental Program to Stimulate Competitive Research (EPSCoR) Program and the Science and Engineering Foundation; $3,000,000 in each year of the biennium for the Kentucky Research and Development Voucher Program; $750,000 in each year of the biennium for the Kentucky Commercialization Fund; $500,000 in each year of the biennium for the Regional Technology Corporations and Satellite Innovation and Commercialization Centers; and $1,000,000 in each year of the biennium for the Rural Innovation Program, notwithstanding the provisions of KRS 164.6027 and 164.6029.

f. Lung Cancer Research Fund Interest Transfer: Notwithstanding the provisions of KRS 164.476, interest earnings up to $300,000 from the Lung Cancer Research Fund may be transferred to the Agency Revenue accounts of the Council on Postsecondary Education to support the Knowledge-Based Economy Academic Program included in the Restricted Funds appropriation for the Council on Postsecondary Education in Part I.

g. Science and Technology Trust Fund: Notwithstanding the provisions of KRS 164.6019, 164.6027, 164.6035, and 164.6043, the unobligated balance of fiscal year 2001-2002 appropriations from the Council on Postsecondary Education, Science and Technology Trust Fund, at the end of fiscal year 2001-2002 shall be transferred to the Office of the Commissioner for the New Economy within the Cabinet for Economic Development. The unobligated balance shall be certified by the Council on Postsecondary Education and submitted to the State Budget Director for final approval prior to the transfer.

h. Interest Earnings Transfer from the Strategic Investment and Incentive Trust Fund accounts: Notwithstanding the provisions of KRS 164.7913 to 164.7925, the Council on Postsecondary Education may transfer interest earnings from the Strategic Investment and Incentive Trust Fund accounts to the Agency Revenue accounts of the Council, and expend them upon application to and approval from the State Budget Director, and reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.630.

i. Kentucky Science and Technology Corporation: Notwithstanding the provisions of KRS 164.6017, the Kentucky Science and Technology Corporation shall submit an annual plan detailing the annual allocation of funds from the Science and Technology Funding Program, excluding funds for the Knowledge-Based Economy Academic Programs, for review and approval by the Council on Postsecondary Education and the Office of the New Economy within the Cabinet for Economic Development, prior to the Council on Postsecondary Education executing a contract with the Corporation to administer Science and Technology Funding programs.

j. Student Financial Aid and Advancement Trust Fund: The Council on Postsecondary Education shall transfer $750,000 in interest income from the Student Financial Aid and Advancement Trust Fund to the Kentucky Higher Education Assistance Authority in fiscal year 2002-2003 to assist in the financing of the Kentucky Educational Excellence Scholarship (KEES) program.

k. Concept Phase Funding Pool: Notwithstanding the provisions of KRS 164.6021, the funds appropriated in Part I to the Council on Postsecondary Education for the Research and Development Voucher Program may be used to fund the Concept Phase Funding Pool.

l. Regional Postsecondary Education Centers: The Council on Postsecondary Education shall resolve any disputes between or among institutions in the design, planning, or use of each Regional Postsecondary Education Center previously authorized by the General Assembly.

m. Postsecondary Education Employment Status: Notwithstanding KRS 164.225, 164.360, and 164.830, the appointment of a relative to the governing board of a public postsecondary education institution, as defined under KRS 164.001, shall not affect the employment status of any related person employed at least thirty-six (36) months prior to the appointment of the relative.

n. Efficient Facilities: The General Assembly directs, that the Hunt Morgan Addition and Pharmacy Building Addition endorsed for construction by the Council on Postsecondary Education in its 2002-2004 fiscal biennial budget recommendation to the General Assembly, being both designed for wet lab research and having similar requirements for support facilities that can be shared to maximize research space and operational efficiency, shall be constructed as one building.

45. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE

a. Postsecondary Workforce Training Program: Included in the General Fund appropriation to the Kentucky Community and Technical College System in Part I is $6,000,000 each year of the biennium for the Postsecondary Workforce Training Program. These funds shall be used for worker training programs on a nonrecurring basis and shall not be used to establish permanent Kentucky Community and Technical College program offerings. Up to $2,100,000 of the Postsecondary Workforce Training Program each year of the biennium may be transferred to the Bluegrass State Skills Corporation within the Cabinet for Economic Development upon a determination by the State Budget Director that other sources of funds are insufficient to meet the employment retention and training needs of the Commonwealth as certified by the Secretary of the Economic Development Cabinet.

46. KENTUCKY STATE UNIVERSITY

a. Non-Federal Matching Requirement: Included in the Restricted Funds appropriation to Kentucky State University in Part I is $487,800 in fiscal year 2002-2003 and $502,400 in fiscal year 2003-2004 to enable Kentucky State University to fully fund the non-federal matching requirement under the provisions of the Federal Agriculture Research, Extension, and Education Reform Act of 1998. Notwithstanding the provisions of KRS 164.7911 to 164.7925, interest income in the amount of $487,800 in fiscal year 2002-2003 and $502,400 in fiscal year 2003-2004 will be transferred to Kentucky State University by the Council on Postsecondary Education.

47. MOREHEAD STATE UNIVERSITY

a. Faculty and Staff Salaries: Since Morehead State University is located in, and serves the citizens of, an economically depressed region in which per capita income is among the lowest in the nation, and where employment and career opportunities are greatly limited, the University shall place the highest priority on improving the salary and employment conditions of its lower wage faculty and staff members.

In addition to providing a regular annual two percent (2%) increment to base salary, the University shall implement the following salary improvements, notwithstanding KRS 164.365: faculty and staff members whose wage earnings are less than $20,000 shall receive an annual four percent (4%) salary increase; faculty and staff members whose wage earnings are at least $20,000 but less than $30,000 shall receive an annual three percent (3%) salary increase; and faculty and staff members whose wage earnings are at least $30,000 but less than $40,000 shall receive an annual two percent (2%) salary increase ; and Faculty and staff members whose wage earnings are at least $40,000 but less than $50,000 shall receive an annual one percent (1%) salary increase.

b. Space Allocation: Morehead State University shall provide at least five thousand (5,000) square feet of classroom, open laboratory, teaching laboratory and other space necessary for the Kentucky Community and Technical College System, the Office of the New Economy, the University of Kentucky and other public entities to provide programs and other activities to assist in meeting the academic and workforce training needs of the region within the West Liberty Extended Campus Building authorized by 1998 Kentucky Acts, Chapter 615, Part II (HB 321).

c. Chiller Repair Program: Included in the General Fund appropriation in Part I of this Act is $300,000 in fiscal year 2003-2004 for the Chiller Repair Program to be jointly offered in Morehead by Morehead State University and the Kentucky Community and Technical College System. Morehead State University shall transfer to the Kentucky Community and Technical College System at least $50,000 of these funds to support Kentucky Community and Technical College System course offerings and student services in this program.

d. Hazel Green and West Liberty Courses Offerings: Included in the General Fund appropriation in Part I of this Act is $100,000 in fiscal year 2003-2004 for program and course offerings in Hazel Green and West Liberty. These programs and courses will be jointly offered by Morehead State University and the Kentucky Community and Technical College System. Morehead State University shall offer the upper division and graduate level courses and the Kentucky Community and Technical College System shall offer the lower division courses. Morehead State University shall transfer to the Kentucky Community and Technical College System at least $50,000 of these funds to support Kentucky Community and Technical College System course offerings and student services at these locations.

48. UNIVERSITY OF KENTUCKY

a. Interest Income: Notwithstanding the provisions of KRS 164.7911 through 164.7925, interest income in the amount of $234,800 shall be transferred to the University of Kentucky from the Council on Postsecondary Education in fiscal year 2002-2003.

b. University of Kentucky Center for Rural Health: This facility shall be financed by the issuance of tax exempt bonds by the State Property and Buildings Commission. Lease rental payments from the University of Kentucky to the Appalachian Regional Hospital Corporation in the amount of $383,000 per year and lease rental payments by Hazard Community College to the Appalachian Regional Hospital Corporation in the amount of $145,000 per year provide the fund source of lease rental payment to the State Property and Buildings Commission for the purpose of providing debt service for bonds to fund the facility. It is recognized that the lease rental payments by the University of Kentucky and by Hazard Community College to Appalachian Regional Hospital Corporation are necessary to provide the space needs of the University of Kentucky and Hazard Community College until the completion of the new building facility. Therefore, these lease rental payments are not available for lease rental payments to the State Property and Buildings Commission for the issuance of the tax exempt bonds to be used to finance the project until the completion of the new building. The Office for Financial Management within the Finance and Administration Cabinet shall work with the Council on Postsecondary Education to provide an interim financing program to allow for the construction of the new facility, without diversion of the lease rental payments by the University of Kentucky and the Hazard Community College, to the Appalachian Regional Hospital Corporation, and to the State Property and Buildings Commission until such time as the new facility is completed.

c. Ovarian Cancer Screening Outreach Program: Notwithstanding KRS 164.7911 through 164.7927, General Fund (Tobacco) dollars in the amount of $700,000 each fiscal year shall be transferred from the Research Challenge Trust Fund's Lung Cancer Research Program and allotted to the Ovarian Cancer Screening Out Reach Program at the University of Kentucky. The Ovarian Cancer Screening Outreach Program may accept gifts, grants, and bequests in support of its mission and duties. All funds received shall be administered by the University of Kentucky through appropriate trust and agency accounts.

49. UNIVERSITY OF LOUISVILLE

a. Quality and Charity Care Trust Agreement: Notwithstanding the provisions of KRS 164.7911 through 164.7925, interest income in the amount of $50,000 shall be transferred to the University of Louisville from the Council on Postsecondary Education in fiscal year 2002-2003 for the Quality and Charity Care Trust Agreement.

TRANSPORTATION CABINET

50. CABINET WIDE

a. Biennial Highway Construction Programs: The Secretary of Transportation is directed to produce a single document that contains two separately identified sections, as follows:

Section 1 shall detail the enacted fiscal biennium 2002-2004 Biennial Highway Construction Program and Section 2 shall detail the Highway Preconstruction Program Plan for fiscal year 2004-2005 through fiscal year 2007-2008 as identified by the 2002 General Assembly. This document shall mirror in data type and format the fiscal year 2002-2008 Recommended Six Year Highway Plan as submitted to the 2002 General Assembly. The document shall be published and distributed to members of the General Assembly and the public within sixty (60) days of adjournment of the 2002 General Assembly.

No executive authority shall expend, or otherwise commit in any manner, available fiscal biennium 2002-2004 Road Fund resources for a project designated as a State Project in the fiscal year 2004-2005 through fiscal year 2007-2008 Highway Preconstruction Program Plan. In the event that federally funded projects contained in the enacted fiscal biennium 2002-2004 Biennial Highway Construction Program are delayed due to unforeseen circumstances, or if additional federal funds are received in excess of the amounts contemplated in this Act, the Transportation Cabinet may advance projects from the Highway Preconstruction Plan only to the extent required to assure that the Commonwealth makes full use of all available federal funds.

The Secretary of Transportation is further directed to report monthly to the Legislative Research Commission of all activity, as prescribed by KRS 176.430, relating to all projects with open activity conducted by the Transportation Cabinet during the biennium including the year each project phase was enacted in a Six Year Highway Plan. Pursuant to KRS 48.800(5), the Transportation Cabinet shall submit the electronic monthly report in a format prescribed by the Legislative Research Commission.

Notwithstanding KRS 176.440(2) any project additions or modifications that the 2002 General Assembly may make to the fiscal year 2002-2008 Recommended Six Year Road Plan shall carry the same force of law as projects that were included in the fiscal year 2002-2008 Recommended Six Year Road Plan as submitted by the Executive Branch.

51. AIR TRANSPORTATION

a. Bluegrass Field Airport: No appropriations to the Air Transportation Budget shall be utilized for the purpose of studying, planning, or construction of an additional runway at Bluegrass Field Airport.

b. Certified Air Carriers and Cap on Sales and Use Tax: The sales and use tax credit shall be an amount equal to the Kentucky sales and use tax otherwise applicable to aircraft fuel, including jet fuel, purchased by the certificated air carrier for its storage, use, or other consumption during the annual period, less $1,000,000. The $1,000,000 amount shall be increased to reflect the Kentucky sales and use tax on aviation fuel attributable to operations of any other company purchased, merged, acquired, or otherwise combined with the certificated air carrier after the base period. The amount of the increase shall be based on the Kentucky sales and use tax applicable to such aircraft fuel purchased during the twelve (12) month period immediately preceding the purchase, merger, or other acquisition by or combination with the certificated air carrier.

52. PUBLIC TRANSPORTATION

a. Federal Transit Administration Match: Included in the fiscal year 2002-2003 Restricted Fund appropriation is $1,650,000 to match Federal Transit Administration discretionary capital grants to purchase buses and vans for public transit entities. To the extent that these Restricted Funds are not necessary to match additional federal funds for the Federal Transit Administration discretionary capital grants for buses and vans, the Restricted Funds shall revert to the Capital Construction and Equipment Purchase Contingency Account at the close of fiscal year 2003-2004.

b. Human Services Transportation Delivery Program: Consistent with other provisions of this Act, the Human Services Transportation Delivery Program shall continue to be operated under KRS 281.870 to KRS 281.879.

53. HIGHWAYS

a. State Match Provisions: The Transportation Cabinet is authorized to utilize state construction moneys to match federal highway moneys in the event that unanticipated additional federal funds are provided to Kentucky and the state match appropriations have been exhausted.

b. Excess Debt Service/Lease-Rental Appropriations: Any Road Fund appropriations that are not needed to pay lease-rental payments to the Kentucky Turnpike Authority or debt service on the new Transportation Cabinet Office Building shall be credited to the State Construction Account.

c. Federal Aid Highway Funds: If additional federal highway moneys are made available to Kentucky by the United States Congress, the funds shall be used according to the following priority: (a) any demonstration-specific or project-specific money shall be used on the project identified; and (b) all other funds shall be used to insure that projects in the 2002-2004 Biennial Highway Construction Plan are funded. If additional federal moneys remain after these priorities are met, the Transportation Cabinet may select projects from the four (4) year pre-construction program.

d. Demonstration Projects: The Transportation Cabinet is authorized to select up to five (5) design/build demonstration road related projects. For procurement purposes, the Transportation Cabinet shall utilize a qualifications-based bidding process within the context of the provisions of KRS Chapter 176, notwithstanding any conflicting provisions of KRS Chapters 45A, 176, and 177. The Secretary of Transportation shall determine the nature and scope of each design/build project.

e. Pre-financing Road Projects: The Secretary is directed to develop and implement a program to address the policy of the General Assembly to expeditiously initiate and complete projects in the 2002-2004 Biennial Highway Construction Plan. Notwithstanding the provisions of KRS Chapter 45, specifically including provisions of KRS 45.242 and 45.244, the Secretary may concurrently advance projects in the Biennial Highway Construction Plan by employing management techniques that maximize the Cabinet's ability to contract for and effectively administer the project work. The Secretary is directed to continuously ensure that the unspent project and Road Fund balances available to the Transportation Cabinet are sufficient to meet expenditures consistent with appropriations provided.

f. Miscellaneous Road Fund Expenditures: A turning lane shall be constructed at KY 1958 and the New Retirement Center in Clark County. The cost related to the construction of the turning lane shall be funded from Road Fund resources.

Luminaries shall be installed at South Williamson to KY 308 in Pike County. The cost related to the installation of the luminaries shall be funded from Road Fund resources.

A stop light shall be installed at the intersection of 55th street and US 23 in Boyd County. The cost related to the installation of the stop light shall be funded from Road Fund resources.

A stop light shall be installed at the intersection of US 421 and US 62 in Woodford County. The cost related to the installation of the stop light shall be funded from Road Fund resources.

Two flashing school zone lights shall be installed for Fairview High School. The cost related to the installation shall be funded from Road Fund resources. The cost to operate the lights shall be the responsibility of the Boyd County Fiscal Court.

Guardrails shall be installed at the following locations: KY 32 from the Rowan/Elliott County Line to the Junction of KY 32 and KY 7; KY 1620 between MP 2 and MP 4 in Elliott County; KY 1426 between MP 8.263 and MP 8.819 in Floyd County; KY 1231 between MP 2.6 and MP 4.6 in Knott County; KY 1697 between MP 1.7 and MP 3.7 in Knott County; KY 550 between MP 16.8 and MP 18.0 in Knott County; KY 582 between MP 7.9 and MP 10.3 in Knott County; and KY 3419 between MP 9.509 and MP 12.014 in Pike County. The cost related to the installation of the guardrails shall be funded from the maintenance account.

Directional signs to the Aviation Museum of Kentucky shall be installed on US 60 near the intersection of Man-of-War and US 60 in Fayette County. The cost related to the installation of the signs shall be funded from Road Fund resources.

The Transportation Cabinet shall resurface KY 181 from MP 5.8 to MP 10.5 in Muhlenburg County. The costs related to the resurfacing of KY 181 shall be funded from the maintenance account.

The Transportation Cabinet shall resurface KY 1002 from MP 0.638 to MP 1.1 in Wolfe County. The costs related to the resurfacing of KY 1002 shall be funded from the maintenance account.

Spot improvements shall be made at the intersection of KY 550 and KY 1103 in Knott County to increase site distance. The cost related to the spot improvements shall be funded from Road Fund resources.

Sight distance improvements shall be made from the intersection of KY 645 and KY 581 in Lawrence County extending 2,000 feet South along KY 581 towards Paintsville. The cost related to the sight distance improvement shall be funded from Road Fund resources.

54. GENERAL ADMINISTRATION AND SUPPORT

a. Adopt-A-Highway Litter Program: The Transportation and Natural Resources and Environmental Protection Cabinets may receive and accept grants, contributions of money, property, labor, or other things of value from any governmental agency, individual, nonprofit organization, or private business to be used for the Adopt-a-Highway Litter Program or other statewide litter programs. Any contribution of this nature shall be deemed to be a contribution to a state agency for a public purpose and shall be treated as restricted funds under KRS Chapter 45 and reported according to KRS Chapter 48, and shall not be subject to restrictions set forth under KRS Chapter 11A.

b. Transportation Cabinet Office Building: The new Transportation Cabinet Office Building shall be owned by the Transportation Cabinet and any revenue generated from the leasing of office space in the new Transportation Cabinet Office Building shall be deposited in the Road Fund.

WORKFORCE DEVELOPMENT CABINET

55. DEPARTMENT FOR TECHNICAL EDUCATION

a. Participation in the Education Technology Program by Area Vocational Education Centers: Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650 to 157.665, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Kentucky Department of Education, shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds. The School Facilities Construction Commission shall include Area Vocational Education Centers in any offers of assistance to local school districts for technology assistance during the 2002-2004 fiscal biennium.

56. DEPARTMENT FOR VOCATIONAL REHABILITATION

a. Personnel Cap: A personnel cap of 504 positions (484 full time, 19 part time, and 1 interim) is authorized.

57. DEPARTMENT FOR EMPLOYMENT SERVICES

a. Facility Replacement and Renovation Program: The General Assembly authorizes the Department to develop and implement a facility replacement and renovation program to improve the quality of Workforce Development Cabinet facilities used by the Department and its clients, and to reduce departmental reliance on lease/rental properties. The Department is directed to coordinate this program with the Secretary of the Finance and Administration Cabinet and the sale, transfer, or other disposition of existing facilities may be expended toward the purchase, construction, renovation, and equipping and furnishing of replacement facilities. Expenditures authorized by this provision are limited to the use of funds solely derived from the sale of Cabinet-owned facilities, which equity rights are shared between both the state and the federal government. Any project estimated to cost over $400,000 shall be reported to the Capital Projects and Bond Oversight Committee by the Secretary of the Finance and Administration Cabinet.

PART X

GENERAL FUND SURPLUS EXPENDITURE PLAN

1. Pursuant to KRS 48.700 and notwithstanding KRS 48.140, there is established a plan for the expenditure of General Fund surplus moneys pursuant to a General Fund Surplus Plan contained in this Part for fiscal years 2002-2003 and 2003-2004. Pursuant to the enactment of the Surplus Expenditure Plan, General Fund moneys in the General Fund undesignated fund balance in excess of the amount specified in Part III, 25., are appropriated to the Budget Reserve Trust Fund established in KRS 48.705.

2. The Secretary of the Finance and Administration Cabinet shall determine, within thirty (30) days after the close of fiscal year 2001-2002, and the close of fiscal year 2002-2003, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for the Budget Reserve Trust Fund pursuant to the Plan in fiscal year 2002-2003 and fiscal year 2003-2004.

The Secretary of the Finance and Administration Cabinet shall certify the amount of actual General Fund undesignated fund balance available for expenditure to the Legislative Research Commission.

Subsequent to June 30, 2002, funds that are certified as being available in the actual General Fund undesignated fund balance for the General Fund Surplus Account are appropriated for the Budget Reserve Trust Fund in fiscal year 2002-2003 pursuant to the Plan.

PART XI

PHASE I TOBACCO SETTLEMENT

This section of the Act prescribes the policy implementing aspects of the national settlement agreement between the tobacco industry and the collective states as described in KRS 248.701 to KRS 248.727. In furtherance of that agreement, the General Assembly recognizes that the Commonwealth of Kentucky is a party to the Phase I Master Settlement Agreement (MSA) between the Participating Tobacco Manufacturers and forty-six (46) Settling States which provides reimbursement to states for smoking-related expenditures made over time.

1. The Commonwealth's share of the MSA is equal to 1.7611586% of the total settlement amount. Payments under the MSA are to be made to the states in January and April of each year.

2. The total settlement amount to be distributed each payment date is subject to change pursuant to several variables provided in the MSA, including inflation adjustments, volume adjustments, previously settled states adjustments, and the non-participating manufacturers adjustment.

3. The General Assembly has determined that it shall be the policy of the Commonwealth that all Phase I Tobacco Settlement payments shall be deposited to the credit of the General Fund and shall maintain a distinct identity as Phase I Tobacco Settlement payments that shall not lapse to the credit of the General Fund surplus, but shall continue forward from each fiscal year to the next fiscal year to the extent that any balance is unexpended.

4. Based on the current estimates as reviewed by the Consensus Revenue Forecasting Group, the amount of MSA payments expected to be received in fiscal year 2002-2003 is $125,600,000 and in fiscal year 2003-2004 is $109,100,000. It is recognized that payments to be received by the Commonwealth are estimated and are subject to change. Any appropriations made from the estimated receipts are subject to adjustments based on actual receipts as received and certified by the Secretary of the Finance and Administration Cabinet.

a. Early Childhood Development Initiatives: Twenty-five percent (25%) of the MSA payments received in fiscal year 2002-2003, estimated to be $31,400,000, and in fiscal year 2003-2004, estimated to be $27,275,000, is appropriated for Early Childhood Development Initiatives as specified below.

b. Health Care Initiatives: Twenty-five percent (25%) of the MSA payments received in fiscal year 2002-2003, estimated to be $31,400,000, and in fiscal year 2003-2004, estimated to be $27,275,000, is appropriated to the Kentucky Health Care Improvement Fund for health care initiatives as specified below.

c. Agricultural Development Initiatives: Fifty percent (50%) of the MSA payments received in fiscal year 2002-2003, estimated to be $62,800,000, and in fiscal year 2003-2004, estimated to be $54,550,000, is appropriated to the Kentucky Agricultural Improvement Fund to be used for agricultural development initiatives.

A. AGRICULTURAL DEVELOPMENT APPROPRIATIONS

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

1. GOVERNMENT OPERATIONS

		2002-03	2003-04
Budget Unit	Governor's Office of Agricultural Policy	47,688,000	39,434,000

From the allocation provided in KRS 248.703(2)(b)2., included in the above appropriation is up to $1,600,000 in fiscal year 2002-2003 and $1,600,000 in fiscal year 2003-2004 for the University of Kentucky Extension Service to support the cost of providing a five percent (5%) bonus to be made in addition to any salary adjustments that may be provided in accordance with Part IV, State Salary/Compensation and Employment Policy of this Act, but shall not be added to the employee's base salary.

Counties that are allocated in excess of $20,000 annually, as provided by KRS 248.703(2)(b)1. may provide up to four percent (4%) of the individual county allocation, not to exceed $15,000 annually, to the county council in that county for administrative costs.

2. FINANCE AND ADMINISTRATION CABINET

		2002-03	2003-04
Budget Unit	Debt Service	6,112,000	6,116,000

To the extent that revenues sufficient to support the required debt service appropriations are received from the Tobacco Settlement Program, those revenues shall be transferred from those accounts to the appropriate account of the General Fund to fully fund the aggregate debt service obligation of the General Fund. All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there is a sufficient amount available to be transferred from tobacco supported funding program accounts to other accounts of the General Fund.

3. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

		2002-03	2003-04
Budget Unit	Natural Resources	8,800,000	8,800,000

These funds are appropriated for the Environmental Stewardship Program within the Department for Natural Resources.

	2002-03	2003-04
TOTAL AGRICULTURAL APPROPRIATIONS	62,600,000	54,350,000

B. EARLY CHILDHOOD DEVELOPMENT

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

1. GOVERNMENT OPERATIONS

		2002-03	2003-04
Budget Unit	Governor's Office of Early Childhood Development	2,188,400	2,188,400

2. CABINET FOR FAMILIES AND CHILDREN

		2002-03	2003-04
Budget Unit	Community Based Services	7,262,800	3,581,300

Included in the above appropriation is $7,023,300 in fiscal year 2002-2003 and $3,023,300 in fiscal year 2003-2004 for the Early Childhood Development Program, and $239,500 in fiscal year 2002-2003 and $558,000 in fiscal year 2003-2004 for Child Advocacy Centers. Notwithstanding KRS 45.229, Phase I Tobacco Settlement funds totaling $4,000,000 in fiscal year 2001-2002 shall not be expended but shall carry forward into fiscal year 2002-2003 and not be expended, but shall carry forward into fiscal year 2003-2004 to sustain operations of fully implemented child care programs. These represent funds from fiscal year 2000-2001 which were reserved by the Early Childhood Authority in anticipation of the reduced Phase I Tobacco Settlement payments in fiscal year 2003-2004.

3. CABINET FOR HEALTH SERVICES

		2002-03	2003-04
Budget Unit	Public Health	18,598,800	18,155,300

Included in the above appropriation is $11,948,800 in each fiscal year for the HANDS Program; $2,200,000 in fiscal year 2002-2003 and $2,300,000 in fiscal year 2003-2004 for Healthy Start initiatives; $2,000,000 each fiscal year for Universal Children's Immunizations; $1,200,000 in fiscal year 2002-2003 and $1,106,500 in fiscal year 2003-2004 for the Folic Acid Program; $250,000 in fiscal year 2003-2004 for Early Childhood Oral Health, and transfers to the General Fund amounts totaling $1,250,000 in fiscal year 2002-2003 and $550,000 in fiscal year 2003-2004. Additionally, $93,500 in Phase I Tobacco Settlement funds is budgeted to continue from fiscal 2001-2002 into fiscal year 2003-2004 to sustain operations of the fully implemented Folic Acid program. This amount represents funds from fiscal year 2000-2001 which were reserved by the Early Childhood Authority in anticipation of the reduced Phase I Tobacco Settlement payments in fiscal year 2003-2004. Phase I Tobacco Settlement Funds budgeted to continue from fiscal year 2001-2002 in the amount of $450,000 shall be transferred to the General Fund in fiscal year 2002-2003.

		2002-03	2003-04
Budget Unit	Mental Health and Mental Retardation1,000,000	1,000,000	
Budget Unit	Children with Special Health Care Needs	1,600,000	1,600,000

Included in the above appropriation is $550,000 in each fiscal year for Universal Newborn Hearing Screening; $50,000 in each fiscal year for Vision Screening; and $1,000,000 each fiscal year for the Kentucky Early Intervention Services First Steps Program.

4. POSTSECONDARY EDUCATION

		2002-03	2003-04
Budget Unit	Kentucky Higher Education Assistance Authority	750,000	750,000

Included in the above appropriation is $750,000 each fiscal year for Early Childhood Scholarships.

TOTAL EARLY CHILDHOOD APPROPRIATIONS 31,400,000 27,275,000

C. HEALTH CARE IMPROVEMENT APPROPRIATIONS

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

Notwithstanding the provisions of KRS 304.17B-003(5) appropriations for health care improvement shall be as follows:

1. GOVERNMENT OPERATIONS

		2002-03	2003-04
Budget Unit	Kentucky Agency for Substance Abuse Policy	2,574,800	2,236,600

Included in the above appropriation is $1,844,100 in fiscal year 2002-2003 and $1,489,300 in fiscal year 2003-2004 which shall be transferred to the Endowment fund, notwithstanding the provisions of KRS 12.330. This Endowment fund shall be created as a Restricted Funds account in the state accounting system. Contained in the above appropriation is $225,000 each fiscal year to be transferred to the Department for Public Health for operating costs associated with the upgrade of the Kentucky All Schedule Prescription Electronic Reporting (KASPER) system. Included in the above appropriation is $500,000 in fiscal year 2002-2003 and $500,000 in fiscal year 2003-2004 which shall be transferred to the credit of the General Fund.

2. CABINET FOR HEALTH SERVICES

		2002-03	2003-04
Budget Unit	Public Health	3,140,000	2,727,500

These funds are appropriated for the Smoking Cessation Program within the Department for Public Health.

3. POSTSECONDARY EDUCATION

		2002-03	2003-04
Budget Unit	Council on Postsecondary Education 6,280,000	5,455,000	

These funds are appropriated for the Lung Cancer Research Program within the Council on Postsecondary Education.

4. PUBLIC PROTECTION AND REGULATION CABINET

		2002-03	2003-04
Budget Unit	Department of Insurance General Operations	19,405,200	16,855,900

These funds are appropriated for the Kentucky Access Program.

	2002-03	2003-04
TOTAL HEALTH CARE APPROPRIATIONS	31,400,000	27,275,000

	2002-03	2003-04
TOTAL PHASE I TOBACCO SETTLEMENT FUNDING PROGRAM	125,600,000	109,100,000

PART XII

STATE/EXECUTIVE BRANCH BUDGET SUMMARY

OPERATING BUDGET

	2001-2002	2002-2003	2003-2004
General Fund - Tobacco		125,600,000	109,100,000
General Fund 330,000	6,883,476,600	7,116,174,700	

Restricted Funds	9,298,700	3,540,540,700	3,628,845,500
Federal Funds 17,971,500	5,360,165,100	5,380,347,000	
Road Fund	49,626,000	1,091,699,300	1,122,934,300
Subtotal	77,226,200	17,001,481,700	17,357,401,500

CAPITAL PROJECTS BUDGET

	2001-2002	2002-2003	2003-2004
General Fund - Tobacco	-0-	-0-	-0-
General Fund -0-	100,000	400,000	
Restricted Funds	34,547,000	653,987,300	232,677,000
Federal Funds 1,392,000	79,719,000	8,866,000	
Bond Funds	231,200,000		
Road Fund		5,840,000	8,284,000
Agency Bonds	66,800,000		
Capital Construction Surplus		4,549,000	319,000
Investment Income		26,654,000	16,540,000
Deferred Maintenance		1,957,000	
Other Funds	105,918,000	2,700,000	
Emergency Repair, Replacement and Maintenance	3,100,000	1,000,000	
Capital Construction Contingency		14,728,000	
Subtotal	39,039,000	1,192,452,300	269,786,000

TOTAL-STATE/EXECUTIVE BUDGET

	2001-2002	2002-2003	2003-2004
General Fund - Tobacco	-0-	125,600,000	109,100,000
General Fund 330,000	6,883,576,600	7,116,574,700	
Restricted Funds	43,845,700	4,194,528,000	3,861,522,500
Federal Funds 19,363,500	5,439,884,100	5,389,213,000	
Road Fund	49,626,000	1,097,539,300	1,131,218,300
Bond Funds	231,200,000		
Agency Bonds	66,800,000		
Capital Construction Surplus		4,549,000	319,000
Investment Income		26,654,000	16,540,000
Deferred Maintenance		1,957,000	
Other Funds	105,918,000	2,700,000	
Emergency Repair, Replacement and Maintenance	3,100,000	1,000,000	
Capital Construction Contingency		14,728,000	
TOTAL FUNDS	116,265,200	18,193,934,000	17,627,187,500

The above capital projects are directly funded in Part II, Capital Projects Budget, of this Act.

The Committee on State Government reported **HB 846** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 846, AN ACT relating to health insurance for public employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as

a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "[~~state~~]employee" for purposes of this section ***means:***[~~shall include a~~]

1. ***Any*** person, including an elected public official, who is regularly employed by any department, board, agency, ***or*** branch of state government***;***[~~,~~] or ***by a public postsecondary educational institution; or by*** any ***city***[~~municipal~~], urban-county, charter county,[~~ or~~] county***, or consolidated local*** government, whose legislative body has opted to participate in the ***state-sponsored***[~~state~~] health insurance program pursuant to KRS 79.080***;*** and who is ***either*** a contributing member to any one (1) of the retirement systems administered by the state***, including but not limited to the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan; or is receiving a contractual contribution from the state toward a retirement plan; or, in the case of a public postsecondary education institution, is an individual participating in an optional retirement plan authorized by KRS 161.567;***

2. Any certified or classified employee of a local board of education;

3. ***Any***[~~ It shall also include a~~] person who[~~ must fulfill the requirements established by the Kentucky Board of Education for eligibility and a person who~~] is a present or future recipient of a retirement allowance from[~~ any of~~] the Kentucky Retirement Systems***, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan, except that a person who is receiving a retirement allowance and who is age sixty-five (65) or older shall not be included, unless he or she is actively employed pursuant to subparagraph 1. of this paragraph; and***

4. Any eligible dependents and beneficiaries of participating employees and retirees who are entitled to participate in the state-sponsored health insurance program[~~who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems and includes members of the Legislators' Retirement Plan as provided in KRS 18A.2287. It shall also include a person who is a present or future recipient of a retirement allowance from the Teachers' Retirement System of Kentucky who either satisfies the requirements of KRS 161.525, 161.620, and 161.675 or who is board certified, including a beneficiary of a retired member who is receiving a retirement allowance from the Teachers' Retirement System of Kentucky, except that a member who is receiving a retirement allowance from the Teachers' Retirement System and who is age sixty five (65) or older shall not be included~~].

(2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health care coverage***, that may include but not be limited***[~~ including, but not limited~~] to [~~, indemnity,~~] health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of[~~ state~~] employees. ***With the exception of employers governed by the provisions of KRS Chapters 16, 18A, and 151B, all employers of any class of employees or former employees shall enter into a contract with the Personnel Cabinet prior to including that group in the state health insurance group. The contracts shall include but not be limited to designating the entity responsible for filing any federal forms, adoption of policies required for proper plan administration, acceptance of the contractual provisions with health insurance carriers or third-party administrators, and adoption of the payment and reimbursement methods necessary for efficient administration of the health insurance program***[~~Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994~~]. All[~~ state~~] employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the ***Commonwealth***[~~state~~] or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment.[~~ For calendar year 2001 only, an emergency shall exist when any county in which only one (1) health insurance company offers a single plan to state employees and, subsequent to the open enrollment period, the health insurance company fails to maintain at least sixty five percent (65%) of its contracts within the geographic region with specialty physicians who were participating in the network at the time of open enrollment. The Finance and Administration Cabinet shall immediately notify the Governor, the Legislative Research Commission, and the secretary of the Personnel Cabinet and shall be authorized to immediately negotiate and contract with additional health insurance companies for additional plans to serve any county without meeting the requirements of the Model Procurement Code under KRS Chapter 45.~~]

(b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws.

(c) Any carrier bidding to offer health care coverage to ***employees***[~~members of the state group~~] shall agree to provide coverage to all members of the state group, including[~~ both~~] active employees and retirees ***and their eligible covered dependents and beneficiaries*** within the county or counties specified in its bid. Furthermore, any carrier bidding to offer health care coverage to ***employees***[~~members of the state group~~] shall also agree to rate all ***employees***[~~such members of the state group~~] as a single entity, except for those retirees whose former employers insure their active employees outside the ***state-sponsored***[~~state~~] health insurance program.

(d) Any carrier bidding to offer health care coverage to ***employees***[~~any member of the state group~~] shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance ***with***[~~of~~] data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual ***employee***[~~member~~]; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.

(e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall ***include in the October annual report submitted pursuant to the provisions of KRS 18A.226 to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, an analysis of***[~~provide to the General Assembly in June of each year an analysis of enrollment, claims, utilization data of all carriers for the prior plan year ending December 31, and on~~] the financial stability of the program***, which***[~~. The report~~] shall include[~~,~~] but not be limited to[~~,~~] loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management,[~~ paid dependent coverage,~~] and statutorily required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including, but not limited to, loss ratios, reserves, and reinsurance agreements.

(f) If any agency participating in the ***state-sponsored***[~~state~~] employee health insurance program for its active ***employees***[~~members~~] terminates participation [~~in the state employee health insurance program for its active members~~] and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, ***then*** neither the agency nor the employees shall receive the state-funded contribution after termination from the ***state-sponsored***[~~state~~] employee health insurance program.

(g) ***An entity's participation in the state-sponsored health insurance program shall continue as long as that entity participates in any state-administered retirement system.***

(h) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the ***state-sponsored***[~~state~~] health insurance plan's appropriation account.

(i) Each entity participating in the state-sponsored health insurance program shall provide an amount equal to the state contribution rate for the employer portion of the health insurance premium. For any participating entity that used the state payroll system, the employer contribution amount shall be equal to, but not greater than, the state contribution rate.

(j) All entities whose employees participate in a state administered retirement system, but are not insured pursuant to this section, shall also be responsible for paying to the appropriate retirement system, the difference, if any, between the health insurance contribution approved by that retirement system and the separately rated health insurance premium for its retired members who retire on or after January 1, 2004, at the entitled level of coverage.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, may procure from one (1) or more dental insurance companies, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under Subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of[~~ state~~] employees. All [~~state ~~]employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for[~~ state~~] employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the[~~ insured~~] employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by any department, board, agency, ***public postsecondary education institution,*** or branch of state, ***city***[~~municipal~~], urban-county, charter county,[~~ or~~] county***, or consolidated local*** government; or

(c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, ***postsecondary education institution,*** or branch of state, ***city***[~~municipal~~], urban-county, charter county,[~~ or~~] county***, or consolidated local*** government for any other health care coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a managed health care plan or of a prepaid dental plan, under which he has elected coverage, into either the service area of another managed health care plan or prepaid dental plan or into an area of the ***Commonwealth***[~~state~~] not within a managed health care plan service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health care plan or dental plan.

(6) No payment of premium by any department, board, agency, ***public postsecondary educational institution,*** or branch of state, ***city***[~~municipal~~], urban-county, charter county,[~~ or~~] county***, or consolidated local*** government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, ***public postsecondary educational institution,*** or branch of state, ***city***[~~municipal~~], urban-county, charter county,[~~ or~~] county***, or consolidated local*** government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement[~~, and other provisions the commissioner of insurance may approve~~].

(8)[~~ The policy or policies shall contain the provision that employees or retired employees shall be allowed to change health care plans during the reopening period without any limitation for pre-existing conditions if the employee has met the pre-existing condition limitation upon initial employment or reemployment with the group.~~]

~~(9) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining health care coverage and dental coverage under the provisions of this section.~~

~~(10)~~] Group rates under this section shall be made available to the disabled child of ***an***[~~a state~~] employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(9)[~~(11)~~] The health care contract or contracts for[~~ state~~] employees shall be entered into for a period of not less than one (1) year.

(10)[~~(12)~~] The secretary shall appoint twenty-eight (28) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the ***state-sponsored***[~~state~~] health insurance program for[~~ state~~] employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.

(11)[~~(13)~~] Notwithstanding any other provision of law to the contrary, the policy or policies provided to[~~ state~~] employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of[~~ state~~] employees or their dependents.

(12)[~~(14)~~] Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the ***Department of Insurance***[~~Personnel Cabinet~~], if the physician supervising the treatment certifies that the change is not in the best interests of the patient.

(13) Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse or beneficiary of a retiree, under any one (1) of the state-sponsored retirement systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of any other employment for which there is a public employer contribution. This does not preclude a retiree and an active employee spouse from using both contributions to the extent needed for purchase of one (1) state sponsored health insurance policy for that plan year.

Section 2. KRS 18A.227 is amended to read as follows:

(1) For purposes of this section, the following definitions shall apply:

(a) "Cafeteria plan" shall mean a flexible benefits plan which meets the requirements of Section 125 of the Federal Internal Revenue Code;

(b) "Employee" shall mean a person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state[~~, municipal, urban-county, charter county, or county~~] government, and who is a contributing member to any one (1) of the retirement systems administered by the state;

(c) "Cabinet" shall mean the Personnel Cabinet;

(d) "Change in family status" shall have the same meaning as used in Section 125 of the Internal Revenue Code and regulations promulgated thereunder; and

(e) "Salary reduction contribution" means all employer contributions that are excludable from gross income under the Internal Revenue Code.

(2) As part of the employee benefits provided to state employees under this chapter, the cabinet may develop and make available to eligible employees a flexible benefits plan which meets the requirements for treatment as a cafeteria plan under Section 125 of the Internal Revenue Code. The plan shall be in writing and shall be available on an equal basis to all eligible employees within each county.

(3) Options available under the plan may include, but are not limited to:

(a) Health insurance coverage;

(b) Managed health care coverage;

(c) Catastrophic illness coverage;

(d) Dental insurance;

(e) Term life insurance-accidental, death, or dismemberment;

(f) Vision insurance;

(g) Long term disability insurance;

(h) Long term medical care; and

(i) Any other benefits which may be offered under the provisions of the Internal Revenue Code and which the cabinet determines to be in the best interests of state employees.

(4)[~~ Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse of a retiree, under any one (1) of the Kentucky Retirement Systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of employment under KRS Chapter 16, KRS Chapter 18A, or KRS Chapter 151B.~~

~~(5)~~] Any employee who desires to participate in options offered under the plan, may direct that any options elected shall be funded through payroll deduction.[~~ The election shall be made in writing; and~~] Once an option is chosen, it shall not be changed until the end of the period for which election is made unless the employee experiences a change in family status, other change of status, or special enrollment rights under the Federal Health Insurance Portability and Accountability Act of 1996 which necessitates a revision of his benefit election.

(5)[~~(6)~~] Any employee contributions required toward the purchase of the selected options shall be made by a salary reduction contribution, to the extent the benefits would be considered to be tax-free under Chapter 1 of the Internal Revenue Code, and by after-tax salary deduction where the elected option is not tax-free.

Section 3. The Legislative Research Commission is directed to have a study conducted to examine the health insurance program which the Commonwealth provides for public employees, including the feasibility of the Commonwealth self-insuring health insurance for its public employees. The study shall include an analysis of various benefit options and a determination of the best benefit option that may be offered under a self insurance plan.

(1) The Personnel Cabinet and the Kentucky Group Health Insurance Board shall cooperate with the Legislative Research Commission in executing and completing this study. The cabinet and the board shall grant the Legislative Research Commission access to claims data maintained by the cabinet, studies conducted by the cabinet or on the cabinet's behalf, complete or incomplete, and any other information the Legislative Research Commission may deem relevant to the study of self-insuring public employees.

(2) The Legislative Research Commission may consult with an actuary in the completion of this study.

(3) A status report outlining the progress of the study shall be delivered to the Legislative Research Commission by October 31, 2002. The final report of the study shall be delivered to the Legislative Research Commission by September 1, 2003.

(4) Provisions of this section to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Substitute to **HB 846** is as follows:

HB 846, AN ACT relating to health insurance for public employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service

corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "[~~state~~]employee" for purposes of this section ***means:***[~~shall include a~~]

1. ***Any*** person, including an elected public official, who is regularly employed by any department, board, agency, ***or*** branch of state government***;***[~~,~~] or ***by a public postsecondary educational institution; or by*** any ***city***[~~municipal~~], urban-county, charter county,[~~ or~~] county***, or consolidated local*** government, whose legislative body has opted to participate in the ***state-sponsored***[~~state~~] health insurance program pursuant to KRS 79.080***;*** and who is ***either*** a contributing member to any one (1) of the retirement systems administered by the state***, including but not limited to the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan; or is receiving a contractual contribution from the state toward a retirement plan; or, in the case of a public postsecondary education institution, is an individual participating in an optional retirement plan authorized by KRS 161.567;***

2. Any certified or classified employee of a local board of education;

3. ***Any***[~~ It shall also include a~~] person who[~~ must fulfill the requirements established by the Kentucky Board of Education for eligibility and a person who~~] is a present or future recipient of a retirement allowance from[~~ any of~~] the Kentucky Retirement Systems***, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan, except that a person who is receiving a retirement allowance and who is age sixty-five (65) or older shall not be included, with the exception of persons covered under KRS 61.702(4)(c), unless he or she is actively employed pursuant to subparagraph 1. of this paragraph; and***

4. Any eligible dependents and beneficiaries of participating employees and retirees who are entitled to participate in the state-sponsored health insurance program[~~who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems and includes members of the Legislators' Retirement Plan as provided in KRS 18A.2287. It shall also include a person who is a present or future recipient of a retirement allowance from the Teachers' Retirement System of Kentucky who either satisfies the requirements of KRS 161.525, 161.620, and 161.675 or who is board certified, including a beneficiary of a retired member who is receiving a retirement allowance from the Teachers' Retirement System of Kentucky, except that a member who is receiving a retirement allowance from the Teachers' Retirement System and who is age sixty-five (65) or older shall not be included~~].

(2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health care coverage***, that may include but not be limited***[~~ including, but not limited~~] to [~~, indemnity,~~] health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of[~~ state~~] employees. ***With the exception of employers governed by the provisions of KRS Chapters 16, 18A, and 151B, all employers of any class of employees or former employees shall enter into a contract with the Personnel Cabinet prior to including that group in the state health insurance group. The contracts shall include but not be limited to designating the entity responsible for filing any federal forms, adoption of policies required for proper plan administration, acceptance of the contractual provisions with health insurance carriers or third-party administrators, and adoption of the payment and reimbursement methods necessary for efficient administration of the health insurance program.*** Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994. All[~~ state~~] employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the ***Commonwealth***[~~state~~] or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment.[~~ For calendar year 2001 only, an emergency shall exist when any county in which only one (1) health insurance company offers a single plan to state employees and, subsequent to the open enrollment period, the health insurance company fails to maintain at least sixty-five percent (65%) of its contracts within the geographic region with specialty physicians who were participating in the network at the time of open enrollment. The Finance and Administration Cabinet shall immediately notify the Governor, the Legislative Research Commission, and the secretary of the Personnel Cabinet and shall be authorized to immediately negotiate and contract with additional health insurance companies for additional plans to serve any~~]

~~county without meeting the requirements of the Model Procurement Code under KRS Chapter 45.~~]

(b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws.

(c) Any carrier bidding to offer health care coverage to ***employees***[~~members of the state group~~] shall agree to provide coverage to all members of the state group, including[~~ both~~] active employees and retirees ***and their eligible covered dependents and beneficiaries*** within the county or counties specified in its bid. Furthermore, any carrier bidding to offer health care coverage to ***employees***[~~members of the state group~~] shall also agree to rate all ***employees***[~~such members of the state group~~] as a single entity, except for those retirees whose former employers insure their active employees outside the ***state-sponsored***[~~state~~] health insurance program.

(d) Any carrier bidding to offer health care coverage to ***employees***[~~any member of the state group~~] shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance ***with***[~~of~~] data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual ***employee***[~~member~~]; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.

(e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall ***include in the October annual report submitted pursuant to the provisions of KRS 18A.226 to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, an analysis of***[~~provide to the General Assembly in June of each year an analysis of enrollment, claims, utilization data of all carriers for the prior plan year ending December 31, and on~~] the financial stability of the program***, which***[~~. The report~~] shall include[~~,~~] but not be limited to[~~,~~] loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management,[~~ paid dependent coverage,~~] and statutorially required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including, but not limited to, loss ratios, reserves, and reinsurance agreements.

(f) If any agency participating in the ***state-sponsored***[~~state~~] employee health insurance program for its active ***employees***[~~members~~] terminates participation [~~in the state employee health insurance program for its active members~~] and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, ***then*** neither the agency nor the employees shall receive the state-funded contribution after termination from the ***state-sponsored***[~~state~~] employee health insurance program.

(g) An entity's participation in the state-sponsored health insurance program shall continue as long as that entity participates in any state-administered retirement system.

(h) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the ***state-sponsored***[~~state~~] health insurance plan's appropriation account.

(i) Each entity participating in the state-sponsored health insurance program shall provide an amount at least equal to the state contribution rate for the employer portion of the health insurance premium. For any participating entity that used the state payroll system, the employer contribution amount shall be equal to, but not greater than, the state contribution rate.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, may procure from one (1) or more dental insurance companies, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under Subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of[~~ state~~] employees. All [~~state~~]employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for[~~ state~~] employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the[~~ insured~~] employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by any department, board, agency, ***public postsecondary education institution,*** or branch of state, ***city***[~~municipal~~], urban-county, charter county,[~~ or~~] county***, or consolidated local*** government; or

(c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, ***postsecondary education institution,*** or branch of state, ***city***[~~municipal~~], urban-county, charter county,[~~ or~~] county***, or consolidated local*** government for any other health care coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a managed health care plan or of a prepaid dental plan, under which he has elected coverage, into either the service area of another managed health care plan or prepaid dental plan or into an area of the ***Commonwealth***[~~state~~] not within a managed health care plan service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health care plan or dental plan.

(6) No payment of premium by any department, board, agency, ***public postsecondary educational institution,*** or branch of state, ***city***[~~municipal~~], urban-county, charter county,[~~ or~~] county***, or consolidated local*** government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, ***public postsecondary educational institution,*** or branch of state, ***city***[~~municipal~~], urban-county, charter county,[~~ or~~] county***, or consolidated local*** government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement[~~, and other provisions the commissioner of insurance may approve~~].

(8)[~~ The policy or policies shall contain the provision that employees or retired employees shall be allowed to change health care plans during the reopening period without any limitation for pre-existing conditions if the employee has met the pre-existing condition limitation upon initial employment or reemployment with the group.~~

~~(9) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining health care coverage and dental coverage under the provisions of this section.~~

~~(10)~~] Group rates under this section shall be made available to the disabled child of ***an***[~~a state~~] employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(9)[~~(11)~~] The health care contract or contracts for[~~ state~~] employees shall be entered into for a period of not less than one (1) year.

(10)[~~(12)~~] The secretary shall appoint twenty-eight (28) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the ***state-sponsored***[~~state~~] health insurance program for[~~ state~~] employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.

(11)[~~(13)~~] Notwithstanding any other provision of law to the contrary, the policy or policies provided to[~~ state~~] employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of[~~ state~~] employees or their dependents.

(12)[~~(14)~~] Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the ***Department of Insurance***[~~Personnel Cabinet~~], if the physician supervising the treatment certifies that the change is not in the best interests of the patient.

(13) Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse or beneficiary of a retiree, under any one (1) of the state-sponsored retirement systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of any other employment for which there is a public employer contribution. This does not preclude a retiree and an active employee spouse from using both contributions to the extent needed for purchase of one (1) state sponsored health insurance policy for that plan year.

Section 2. KRS 18A.227 is amended to read as follows:

(1) For purposes of this section, the following definitions shall apply:

(a) "Cafeteria plan" shall mean a flexible benefits plan which meets the requirements of Section 125 of the Federal Internal Revenue Code;

(b) "Employee" shall mean a person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state[~~, municipal, urban-county, charter county, or county~~] government, and who is a contributing member to any one (1) of the retirement systems administered by the state;

(c) "Cabinet" shall mean the Personnel Cabinet;

(d) "Change in family status" shall have the same meaning as used in Section 125 of the Internal Revenue Code and regulations promulgated thereunder; and

(e) "Salary reduction contribution" means all employer contributions that are excludable from gross income under the Internal Revenue Code.

(2) As part of the employee benefits provided to state employees under this chapter, the cabinet may develop and make available to eligible employees a flexible benefits plan which meets the requirements for treatment as a cafeteria plan under Section 125 of the Internal Revenue Code. The plan shall be in writing and shall be available on an equal basis to all eligible employees within each county.

(3) Options available under the plan may include, but are not limited to:

(a) Health insurance coverage;

(b) Managed health care coverage;

(c) Catastrophic illness coverage;

(d) Dental insurance;

(e) Term life insurance-accidental, death, or dismemberment;

(f) Vision insurance;

(g) Long term disability insurance;

(h) Long term medical care; and

(i) Any other benefits which may be offered under the provisions of the Internal Revenue Code and which the cabinet determines to be in the best interests of state employees.

(4)[~~ Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse of a retiree, under any one (1) of the Kentucky Retirement Systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of employment under KRS Chapter 16, KRS Chapter 18A, or KRS Chapter 151B.~~

~~(5)~~] Any employee who desires to participate in options offered under the plan, may direct that any options elected shall be funded through payroll deduction.[~~ The election shall be made in writing; and~~] Once an option is chosen, it shall not be changed until the end of the period for which election is made unless the employee experiences a change in family status, other change of status, or special enrollment rights under the Federal Health Insurance Portability and Accountability Act of 1996 which necessitates a revision of his benefit election.

(5)[~~(6)~~] Any employee contributions required toward the purchase of the selected options shall be made by a salary reduction contribution, to the extent the benefits would be considered to be tax-free under Chapter 1 of the Internal Revenue Code, and by after-tax salary deduction where the elected option is not tax-free.

Section 3. (1) The Legislative Research Commission is directed to have a study conducted by the Interim Joint Committee on State Government, with assistance from the LRC Chief Economist, to determine the cost, if any, to members of the state health insurance group as a result of agencies participating in state-administered retirement systems while insuring their active employees outside the state health insurance group. The Legislative Research Commission shall hire an actuary that has no contractual relations with any state-administered retirement system, the Office of Public Employee Health Insurance, the Kentucky Education Association, KACO, the League of Cities, any regional university, or any governmental entity affected by this study to assist with the study. The committee shall develop and transmit a report of its findings to the Legislative Research Commission on or before October 1, 2002. If it is determined that there is such a cost, the report shall project the cost for at least five years into the future and recommend the administrative procedures through which this cost can be paid by these agencies.

(2) Provisions of this section to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

HB 507, HB 657, HB 658, HJR 87, HJR 133, and **HJR 134** Ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Stumbo moved to suspend the rules to allow for a Rules Committee Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 633, HB 656, HB 749, HB 759, HB 775, HB 792, HB 809, HCR 184, HB 75, HB 681, HB 686, HB 829, HJR 61, HJR 160, HB 618, HB 507, HB 657, HB 658, HJR 87, HJR 133,** and **HJR 134** have been posted for passage in the Orders of the Day for March 12, 2002.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 568, HB 717, HB 105, SB 25, SB 132**

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 207, HB 244, HB 283, HB 309, HB 330, HB 353, HB 399, SB 116,** and **SB 131** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:35 p.m.)

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that the Journal reflect that the following bills and resolutions have been given a second reading: **HB 507, HB 657, HB 658, HJR 87, HJR 133,** and **HJR 134**

Representative Stumbo moved to suspend the rules to introduce and act on a resolution. Agreed.

Introduction of Resolution (Continued)

HR 229, by Representatives Stumbo and Richards: A RESOLUTION honoring Al Cross.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved the adoption of the following **HR 229**:

HR 229, A RESOLUTION honoring Al Cross.

WHEREAS, Al Cross is a native son of the Commonwealth of Kentucky, born in Albany in Clinton County; and

WHEREAS, Al Cross has been a valued and committed employee of the Louisville Courier-Journal newspaper for a very respectable period of more than two decades; and

WHEREAS, Al Cross has been a fixture in and out of the House and Senate Chambers for over ten years diligently reporting the activities of the legislature to the public; and

WHEREAS, Al Cross is currently serving as president of the Society of Professional Journalists which is the nation's largest professional journalism organization that was founded in 1909 as Sigma Delta Chi at DePauw University and now has over nine thousand members; and

WHEREAS, the mission of the Society of Professional Journalists is to promote a free press, that very free press being essential to the continued success of our nation's democracy; and

WHEREAS, the mission of the Society of Professional Journalists is also to promote high standards of reporting and ethics associated with the profession;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby honor and laud Al Cross for his many years of dedicated, professional reporting of the activities of the legislature, and further honors him for his prestigious status of being president of the Society of Professional Journalists.

Section 2. The House of Representatives does hereby recognize that Al Cross exemplifies the values of ethical conduct and professionalism that are set out by the Society of Professional Journalists which he represents.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mr. Al Cross, The Courier-Journal, 614B Shelby Street, Frankfort, Kentucky 40601.

There being no objection **HR 229** was adopted.

The roll call was opened for co-sponsors and on the roll call the vote was **Yeas 93**. (See March 11, 2002, roll call to show cosponsors of **HR 229** - Appendix)

Orders of the Day

SB 70 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved that **SB 70** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 11, 2002, roll call on **SB 70** - Appendix.)

SB 70 was passed and the title agreed to.

Representative Weaver moved that the vote by which **SB 70** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 117, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved the adoption of Floor Amendment No. 1 to **SB 117**. Agreed.

Representative Riggs moved that **SB 117**, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 11, 2002, roll call on **SB 117** - Appendix.)

SB 117, as amended, was passed and the title agreed to.

Representative Riggs moved that the vote by which **SB 117**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 90, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **SB 90**. Agreed.

Representative Marzian moved that **SB 90**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 11, 2002, roll call on **SB 90** - Appendix.)

SB 90, by way of Committee Substitute, was passed and the title agreed to.

Representative Marzian moved that the vote by which **SB 90**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 571, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of the Committee Substitute to **HB 571**. Agreed.

Representative Wilkey moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **SB 90**. Agreed.

Representative Wilkey moved that **HB 571**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 11, 2002, roll call on **HB 571** - Appendix.)

HB 571, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 571**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 234 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 234** be passed.

On the roll call the vote was: **Yeas 87, Nays 7**. (See March 11, 2002, roll call on **HB 234** - Appendix.)

HB 234 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 234** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 14 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 14** be returned to the Orders of the Day and retain its position. Agreed.

SB 149 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Vincent moved that **SB 149** be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 11, 2002, roll call on **SB 149** - Appendix.)

SB 149 was passed and the title agreed to.

Representative Vincent moved that the vote by which **SB 149** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 684 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 684** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 11, 2002, roll call on **HB 684** - Appendix.)

HB 684 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 684** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 18 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Belcher moved that **SB 18** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 11, 2002, roll call on **SB 18** - Appendix.)

SB 18 was passed and the title agreed to.

Representative L. Belcher moved that the vote by which **SB 18** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 545, with Committee Substitute, Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jenkins moved the adoption of the Committee Substitute to **HB 545**. Agreed.

Representative Jenkins moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HB 545**. Agreed.

Representative Wayne moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 545**. Agreed.

Representative Jenkins moved that **HB 545**, by way of Committee Substitute, as amended, be passed.

On the roll call on the motion to adopt Floor Amendment No. 7 the vote was: **Yeas 94, Nays 0**. (See March 11, 2002, roll call on **HB 545** - Appendix.)

HB 545, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Jenkins moved that the vote by which **HB 545**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 74, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved the adoption of the Committee Substitute to **SB 74**. Agreed.

Representative Rasche moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **SB 74**. Agreed.

Representative Rasche moved that **SB 74**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 11, 2002, roll call on **SB 74** - Appendix.)

SB 74, by way of Committee Substitute, as amended, was passed.

Representative Rasche moved the adoption of Floor Amendment No. 1 Title to **SB 74**. Agreed.

Representative Rasche moved that the vote by which **SB 74**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 702, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved that **HB 702**, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 11, 2002, roll call on **HB 702** - Appendix.)

HB 702, as amended, was passed.

Representative Cherry moved the adoption of Committee Amendment No. 1 Title to **HB 702**. Agreed.

Representative Cherry moved that the vote by which **HB 702**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 7 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Adams moved that **SB 7** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 11, 2002, roll call on **SB 7** - Appendix.)

SB 7 was passed and the title agreed to.

Representative R. Adams moved that the vote by which **SB 7** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 402, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 402**. Agreed.

Representative Moberly moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HB 402**. Agreed.

Representative Moberly moved that **HB 402**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 1**. (See March 11, 2002, roll call on **HB 402** - Appendix.)

HB 402, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 402**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 637, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved the adoption of the Committee Substitute to **HB 637**. Agreed.

Representative Rasche moved that **HB 637**, by way of Committee Substitute, be passed.

Representative Jenkins moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 637**.

Floor Amendment No. 1 to the Committee Substitute to **HB 637** was rejected.

Representative Stein moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 637**.

Floor Amendment No. 2 to the Committee Substitute to **HB 637** was rejected.

Representative Rasche moved that **HB 637**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 11, 2002, roll call on **HB 637** - Appendix.)

HB 637, by way of Committee Substitute, was passed and the title agreed to.

Representative Rasche moved that the vote by which **HB 637**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 755, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Tapp moved the adoption of Floor Amendment No. 1 to **HB 755**. Agreed.

Representative Denham moved that **HB 755**, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 11, 2002, roll call on **HB 755** - Appendix.)

HB 755, as amended, was passed and the title agreed to.

Representative Denham moved that the vote by which **HB 755**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 737, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HB 737**. Agreed.

Representative Marzian moved that **HB 737**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 11, 2002, roll call on **HB 737** - Appendix.)

HB 737, by way of Committee Substitute, was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 737**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 598, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved the adoption of the Committee Substitute to **HB 598**. Agreed.

Representative Riggs moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 598**. Agreed.

Representative Riggs moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 598**. Agreed.

Representative Riggs moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 598**. Agreed.

Representative Marcotte moved the adoption of Floor Amendment No. 7 to the Committee Substitute to **HB 598**.

On the roll call on the motion to adopt Floor Amendment No. 1 the vote was: **Yeas 49, Nays 33**. (See March 11, 2002, roll call on Floor Amendment No. 7 to the Committee Substitute to **HB 598**- Appendix.)

Floor Amendment No. 7 to the Committee Substitute to **HB 598**, was adopted.

Representative Marzian moved the adoption of Floor Amendment No. 8 to the Committee Substitute to **HB 598**. Agreed.

Representative Riggs moved that **HB 598**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 81, Nays 8**. (See March 11, 2002, roll call on **HB 598** - Appendix.)

HB 598, by way of Committee Substitute, as amended, was passed.

Representative Riggs moved the adoption of Floor Amendment No. 5 Title to **HB 598**. Agreed.

Representative Riggs moved that the vote by which **HB 598**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved to waive the posting requirement on the following: **HB 744, HB 819, HB 499, HB 211, HB 391, HB 444, HB 600, HB 812, HB 825, HB 864, SB 59, SB 133, SB 138,** and **SB 178**. Agreed.

Representative Stumbo moved that the rules be suspended for Introductions and Report of Committees. Agreed.

Representative Mobley moved the adoption of the following **Legislative Citation No. 81**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Velita Corinne Head Bishop upon the auspicious occasion of her 100th Birthday In celebration of this memorable event, the entire membership is pleased to join Representative Russ Mobley in commending Velita Bishop for a life lived to the fullest and for the vitality of heart which has brought her thus far. This distinguished body hereby extends best wishes to this highly-regarded recipient on the meaningful occasion of her 100th birthday. Done in Frankfort, Kentucky, this eleventh day of March, in the year two thousand and two.

Legislative Citation No. 81 was adopted without objection.

Representative Denham moved the adoption of the following **Legislative Citation No. 82**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincere congratulations to the Mason County High School Royals Basketball Team upon winning the KHSAA 39th District and Region X Championship Titles and advancing to the KHSAA Boys Sweet Sixteen Tournament. Inasmuch as the members of this stellar team, under the skilled tutelage of head coach Kelly Wells, have demonstrated remarkable talent and dedication to the sport of basketball and, as a result, have brought great honor to their school, the community and this great Commonwealth, the members of this distinguished body are delighted to join Representative Mitchel Denham in applauding the achievements of the Mason County High School Royals Basketball Team and in extending best wishes for continued monuments of success and good fortune. Done in Frankfort, Kentucky, this eleventh day of March, in the year two thousand and two.

Legislative Citation No. 82 was adopted without objection.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Agriculture and Small Business: **SB 180**

Local Government: **HB 859, HB 854, HB 852, HB 839, HB 719, HB 696, SB 101, SB 242**

Health and Welfare: **SB 196, HB 819, SB 113, SB 185**

Banking and Insurance: **SCR 34, SB 152**

Motions, Petitions, and Communications (Continued)

Representative Comer moved to withdraw **HB 527** and **HB 845**. Agreed.

Representative Pasley moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Pasley moved that he be recorded as voting "yea" on **HB 145**. Agreed.

Representative Smith moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Smith moved that his vote be changed from "yea" to "nay" on **HB 598**. Agreed.

Representative Gooch moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Gooch moved that he be recorded as voting "yea" on **HB 571, HB 684, HB 234, SB 70, SB 119**(vote recorded prior to bill being reported out of committee; bill never placed before the house for passage)**, SB 90,** and **SB 149**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to the Committee Substitute to **HB 688**, by Representative Dw. Butler:

On page 3, after line 1, by inserting the following:

"*(9) Nothing contained in this section shall apply to licensed lenders that are regulated by the Commonwealth of Kentucky, or to a bank regulated by the federal government or any agency thereof.*"

Floor Amendment No. 2 to **HB 656**, by Representative Nunn:

On page 1, line 21, after "director." by deleting "*The*", and by deleting lines 22 through 25 in their entirety, and on page 2, by deleting line 1 in its entirety, and inserting the following in lieu thereof:

"*(2) The exemption from liability under this section shall not apply to an employer in any case where the injury or death of an employee is proximately caused by the willful or intentional failure of the employer to comply with federal or state occupational safety and health standards as defined in KRS 338.015, or where the secretary of the Labor Cabinet or his designee determines that the employer has exhibited a pattern of violations and those violations were caused by the employer's willful or intentional failure to comply with federal or state occupational safety and health standards. In determining the employer's liability under this section, the commissioner or the court shall consider whether or not the employee was negligent, or whether or not the employee willfully or intentionally failed to comply with federal or state occupational safety and health standards.*"; and

On page 2, at the beginning of line 2, by inserting "*(3)*" and by bracketing and striking through "(2)"; and

On page 2, at the beginning of line 13, by inserting "*(4)*" and by bracketing and striking through "(3)".

Floor Amendment No. 5 to **SB 2**, by Representative Nunn:

On page 12, line 25, after "diagnoses;" by bracketing and striking through "and";

On page 13, line 3, after "efforts" by inserting "***; and***

(f) Recommend statutory, regulatory, and policy changes to improve access to mental health screening, evaluation, and treatment for juveniles in detention centers and for prisoners in all county and city jails in Kentucky by July 15, 2003";

On page 21, after line 3, by inserting the following:

"Section 10. KRS 441.105 is amended to read as follows:

The jailer shall:

(1) Submit a quarterly report to the fiscal court concerning the physical condition of the jail, the number of jail personnel and personnel needs, and other matters requested by the fiscal court.

(2) Submit a monthly report to the department, on forms supplied by the department, containing, but not limited to, the following information on each prisoner:

(a) The unit of government whose law the prisoner is charged with violating, the statute or ordinance the prisoner is charged with violating, and whether the charge is a felony or misdemeanor;

(b) The status of the prisoner, whether pending trial or post conviction;

(c) The age and sex of the prisoner; ~~[and]~~

(d) The county responsible for the incarceration of the prisoner***; and***

(e) The provision of mental health screening, evaluation, or treatment.

(3) Submit a report to the department within twenty-four (24) hours of any prisoner's suicide attempt or any prisoner's suicide.

(4) The department shall consolidate the information contained in the reports required by subsections (2) and (3) of this section and submit one (1) statewide report by September 1 each year that contains information on the provision of mental health services to prisoners and suicides and suicide attempts to the Department for Mental Health and Mental Retardation Services of the Cabinet for Health Services and to the Kentucky Commission on Services and Supports to Individials with Mental Illness, Alcohol and Other Drug Disorders, and Dual Diagnoses.

Section 11. KRS 441.115 is amended to read as follows:

(1) For the purpose of raising the level of competence of jailers and jail personnel, the department shall maintain a jail staff training program to provide training for jailers and jail personnel consistent with the standards promulgated pursuant to KRS 441.055 and shall keep records of jailers and jail personnel who satisfactorily complete basic and annual continuing education. The training program shall include training on the human immunodeficiency virus infection and acquired immunodeficiency syndrome approved by the Cabinet for Health Services***, and mental health screening and suicide prevention***. A curriculum advisory committee composed of jailers, their representatives, and recognized professionals in the field of jail administration shall advise the department concerning the training needs of jailers and jail personnel. The jail staff training program shall be directed and staffed, in coordination with the Governmental Services Center at Kentucky State University, by knowledgeable persons who have sufficient experience, training, and education in jail operations. The department shall not charge a fee for training jailers, their deputies, or jailers-elect.

(2) Beginning in August, 1982, each jailer shall receive an expense allowance to help defray the costs of his participation in the jail staff training program. The expense allowance shall be in the amount of three hundred dollars ($300) per month payable out of the State Treasury. Expense allowance payments shall be discontinued if the jailer fails to satisfactorily complete annual continuing training. Expense allowance payments shall be resumed following a discontinuance for failure to satisfactorily complete basic or annual training only upon the jailer's satisfactory completion of the training.

(3) The allowance authorized in subsections (2) and (4) of this section shall be considered as operating expenses of the jailer's office and shall not be considered as part of his compensation. Jailers shall not be required to keep records verifying the expenditures from the allowance provided by the state.

(4) In order to receive the expense allowance for their first year in office, jailers who have been elected to office for the first time, shall, before taking office, successfully complete a training program designed for new jailers and conducted by the personnel of the jail staff training program. This provision shall not apply if the jailer-elect is ill and unable to complete the training before taking office. In such cases, the jailer-elect shall successfully complete a new jailer training program during his first year in office in order to receive the expense allowance. The county or urban-county government in which the jailer-elect serves shall pay out of the jail budget, once he takes office, all necessary and reasonable travel expenses incurred by the jailer-elect in attending the new jailer training program.

(5) All jailers shall successfully complete the training required. If a jailer does not successfully complete the required training within the time specified, he shall not receive the expense allowance specified in subsection (2) of this section until he successfully completes the required training.

Section 12. KRS 441.055 is amended to read as follows:

(1) The Department of Corrections shall for those counties which elect to house state prisoners in their jail:

(a) Adopt the recommendations of the Jail Standards Commission created pursuant to Executive Order Number 81-1026 and promulgate regulations pursuant to KRS Chapter 13A establishing minimum standards for jails. These standards shall include, but not be limited to, rules governing the following areas:

1. Health and safety conditions;
2. Fire safety;
3. Jail operations, recordkeeping, and administration;
4. Curriculum of basic and continuing annual training for jailers and jail personnel, including ***mental health screening, suicide prevention, and*** training relating to juvenile holding facilities;
5. Custody, care, and treatment of prisoners;
6. Medical care***, including working agreements for mental health screening, evaluation, and treatment of prisoners***; and
7. Jail equipment, renovation, and construction;

(b) Develop a jail standards review process, which shall include the participation of persons knowledgeable of jail operations to review and amend the standards as necessary. The jail standards shall be reviewed no later than December 31, 1992, and at least every two (2) years thereafter. Fifty percent (50%) of the participants in the review process shall be appointed from persons representing county interests and fifty percent (50%) shall be appointed from persons representing state interests; and

(c) Provide technical assistance and consultation to local governments in order to facilitate compliance with standards.

(2) The department shall, for those counties that elect not to hold state prisoners in their jails, adopt the recommendations of the Jail Standards Commission and promulgate administrative regulations pursuant to KRS Chapter 13A to establish minimum standards for those jails. These standards shall be limited to health and life safety***, and working agreements for mental health screening, evaluation, and treatment***.

(3) The department may establish classifications of jails based on the maximum permissible period of incarceration or other criteria and promulgate standards for each class of jail.

Section 13. KRS 210.400 is amended to read as follows:

Subject to the provisions of this section and the policies and regulations of the secretary of the Cabinet for Health Services, each community mental health-mental retardation board shall:

(1) Review and evaluate mental health and mental retardation services provided pursuant to KRS 210.370 to 210.460, and report thereon to the secretary of the Cabinet for Health Services, the administrator of the program, and, when indicated, the public, together with recommendations for additional services and facilities;

(2) Recruit and promote local financial support for the program from private sources such as community chests, business, industrial and private foundations, voluntary agencies, and other lawful sources, and promote public support for municipal and county appropriations;

(3) Promote, arrange, and implement working agreements with other social service agencies, both public and private, and with other educational***, correctional,*** and judicial agencies;

(4) Adopt and implement policies to stimulate effective community relations;

(5) Be responsible for the development and approval of an annual plan and budget;

(6) Act as the administrative authority of the community mental health and mental retardation program; and

(7) Oversee and be responsible for the management of the community mental health and mental retardation program in accordance with the plan and budget adopted by the board and the policies and regulations issued under KRS 210.370 to 210.480 by the secretary of the Cabinet for Health Services.

Section 14. If the 2003-2004 executive budget and accompanying memoranda provide duties for the Kentucky Commission on Services and Supports to Individuals with Mental Illness, Alcohol and Other Drug Disorders, and Dual Diagnoses relating to the provision of mental health services in jails, including juvenile detention centers, those provisions shall take precedence over subsection (3)(f) of Section 5 of this Act.".

Floor Amendment No. 6 to the Committee Substitute No. 2 to **HB 68**, by Representative Feeley:

On page 2, line 7, after the semicolon ";" remove the brackets and strike throughs from the word "or"; and

On page 2, lines 9 through 13, delete the new lanugage on lines 9 through 13, and on line 13 retain the existing period "."; and

On page 2, lines 14 through 16, remove the brackets and strike throughs from lines 14 through 16; and

On page 2, line 17, remove the strike throughs and closing bracket "]" from the subsection number "(8)" and delete the word "***subsection***" and remove the brackets and strike throughs from the word "subsections" and also from the word and number "and (7)"; and

On page 2, line 19, delete the word "***subsection***" and remove the brackets and strike throughs from the word "subsections" and also from the word and number "and (7)"; and

On page 2, between lines 20 and 21, add a new subsection (9) to read as follows:

"***(9) If, when investigating a traffic accident, a peace officer determines that an operator of a motor vehicle, or any passenger in a vehicle, was not wearing a seat belt as required under subsection (6) of this section, the owner of the motor vehicle shall have the deductible on the motor vehicle insurance policy tripled. All insurance companies selling policies on motor vehicles in this state shall comply with tripling the deductible of persons identified in this subsection. The officer investigating the accident shall note on the accident report if the operator of a vehicle, or a passenger in a vehicle, was not wearing a seat belt as required under subsection (6) of this section.***".

Floor Amendment No. 3 to the Committee Substitute to **HB 685**, by Representative J. Lee:

On page 1, line 1, insert two new sections to read as follows:

"Section 1. KRS 186A.510 is amended to read as follows:

As used in KRS 186A.500 to 186A.550, unless the context otherwise requires:

(1) "Brand" means a designation that is affixed as required by this chapter, or that has previously been affixed, to a motor vehicle title that establishes a portion of the history of the motor vehicle and that shall be fixed to all subsequently issued titles for that vehicle;

(2) "Dealer" means a person or business as defined in KRS 190.010 who sells or offers for sale a motor vehicle;

(3) ***"Insurance company" means an insurer as defined in KRS 304.1-040;***

(4) "Junk vehicle" means a vehicle which meets the description set forth in KRS 186A.295(1)(a);

(5)~~[(4)]~~ "Motor vehicle" means a motor vehicle as defined in KRS 186.010(8)(a) and (b);

(6)~~[(5)]~~ "Owner" means a person who holds the legal title of a vehicle or a person who pursuant to a bona fide sale has received physical possession of the vehicle subject to any applicable security interest;

(7)~~[(6)]~~ "Rebuilt vehicle" means a vehicle that has been repaired to a road worthy condition after having been registered as a salvage vehicle pursuant to KRS 186A.520, or a similar salvage designation from another licensing jurisdiction; and

(8)~~[(7)]~~ "Water damage" means damage to a motor vehicle caused by submerging or partially submerging the vehicle in water to the extent that the vehicle was submerged or partially submerged at any water level above the dashboard of the vehicle, regardless of the actual dollar amount of the damage.

SECTION 2. A NEW SECTION OF KRS 186A.500 TO 186A.550 IS CREATED TO READ AS FOLLOWS:

(1) When an insurance company buys a motor vehicle currently registered and titled which meets the definition of a salvage vehicle under KRS 186A.520 and which the insurance company holds for resale, the insurance company shall not be required to obtain a certificate of title for the salvage vehicle but shall, within fifteen (15) days after acquiring the vehicle, notify the county clerk of the assignment of the vehicle to the insurance company and pay the fee for the title application as required by KRS 186A.130(1). An insurance company assigning a title under this section shall be required to pay the county clerk a four dollar ($4) fee for each title the clerk assigns for the insurance company. If an insurance company fails to assign the vehicle under the provisions of this section, the insurance company shall follow the procedures governing the issuance of a salvage title under KRS 186A.520 and 186A.530.

(2) Upon purchasing a salvage vehicle, an insurance company shall obtain from the transferor, properly executed, all documents required by KRS 186A.215, and shall include the odometer disclosure statement, together with a properly assigned certificate of title.

(3) The insurance company choosing to execute an application for assignment shall do so upon documents designated by the Department of Vehicle Regulation to the county clerk of the county in which the insurance company or its agent maintains its principal place of business. The clerk shall enter the assignment into the AVIS system. When a county clerk assigns a title under this section, the clerk shall be required to stamp the back of the title where the insurance company is making the assignment with a brand. The purpose of the brand stamped on the back of the title is to ensure that future owners of the vehicle will be informed it is a salvage vehicle and to prohibit another state from mistakenly issuing a clean title on the salvage vehicle. The Transportation Cabinet shall provide mandatory training for all county clerks and clerks' deputies to inform the clerks of the required duty to stamp a brand on the back of the title of salvage vehicles being assigned by an insurance company.

(4) The insurance company shall retain the properly assigned certificate of title received from its transferor, and may make only one (1) reassignment under this section. The insurance company may use the dealer assignment section on the Kentucky certificate of title for the purpose of the assignment under this section.

(5) When an insurance company assigns a salvage vehicle to a purchaser under this section, the insurance company or its agent shall deliver the properly assigned and branded certificate of title, and other documents if appropriate, to the purchaser who shall apply for a Kentucky salvage title. The insurance company may, with the consent of the purchaser, deliver the assigned certificate of title, and other documents if appropriate, directly to the county clerk, and on behalf of the purchaser, apply for a salvage title on the vehicle."; and

On page 1, line 1, renumber existing "Section 1" as "Section 3"; and

On page 1, line 18, after the subsection number "(2)" insert "*Except as provided in Section 2 of this Act,*" and making "The" lower-case; and

On page 2, line 1, delete all the new language and remove the opening bracket "[" and strike through from the word "a"; and

On page 2, line 2, remove the strike throughs and closing bracket "]" from the entire line; and

On page 2, line 4, delete all the new language and remove the opening bracket "[" and strike throughs from "a manner similar to that" ; and

On page 2, line 5, remove the strike throughs and closing bracket "]" from the words "used in processing a title application" and delete the word "*the*"; and

On page 2, line 6, delete the words "*same way as*" and remove the brackets and strike throughs from the words "a like manner of" and delete the word "*speed*"; and

On page 2, beginning on line 14, and continuing through page 3, line 3, delete existing Section 2 amending KRS 186A.130 in its entirety and insert in lieu thereof the following:

"Section 4. KRS 186A.990 is amended to read as follows:

(1) Any person who knowingly gives false, fraudulent, or erroneous information in connection with an application for the registration, and when required, titling of a vehicle, or any application for assignment of a vehicle identification number, or replacement documents, or gives information in connection with his review of applications, or falsely certifies the truthfulness and accuracy of information supplied in connection with the registration and when required, titling of a vehicle, shall be guilty of forgery in the second degree.

(2) Any person who violates KRS 186A.260 or KRS 186A.275 to 186A.285 shall be guilty of a Class D felony.

(3) Any person who violates KRS 186A.300 to 186A.315 shall be guilty of a Class D felony.

(4) Any person who operates a motor vehicle or trailer upon the highways of this state without a temporary tag when one is required, or with one that is expired, improperly executed, or displayed on a vehicle other than the one (1) to which it was legitimately and lawfully issued, shall be guilty of a Class B misdemeanor.

(5) Any person who violates the disclosure provisions of KRS 186A.530(7) shall be guilty of a Class A misdemeanor.

(6) Any person who violates any provisions of this chapter, or regulations promulgated pursuant thereto, and for which a specific penalty is not prescribed by statute, shall be guilty of a Class A misdemeanor.

(7) Criminal remedies or sanctions provided in this chapter are in addition to, and not exclusive of, any other criminal remedies or sanctions provided elsewhere in the statutes.

(8) In addition to other penalties established under this chapter, an insurance company shall be fined five thousand dollars ($5,000) if the insurance company knowingly sells a salvage vehicle by assignment as provided under Section 2 of this Act, that has not had the assignment on the title properly branded by a county clerk.".

Floor Amendment No. 7 to the Committee Substitute No. 2 to **HB 68**, by Representative Geveden:

On page 7, between lines 26 and 27 by inserting the following:

"*(29) Any person who violates the provisions of subsection (3) of Section 5 of this Act shall have his or her operator's license suspended for a period of ninety (90) days and be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).*"; and

On page 9, between lines 13 and 14, by inserting the following:

"Section 5. KRS 189.285 is amended to read as follows:

(1) A person shall not operate a motorcycle on a highway:

(a) Except when that person is in possession of a valid motorcycle operator's license; and

(b) Unless that person uses an approved eye-protective device, in the manner prescribed by the secretary of the Transportation Cabinet, at all times such vehicle is in motion; and

(c) Unless the motorcycle is equipped with a rear-view mirror.

(2) A person shall not operate or ride as a passenger on a motorcycle:

(a) Except on a seat permanently attached to that vehicle and specifically designed to carry the operator or passenger in a safe manner; and

(b) Except when using a footrest permanently attached to that vehicle and specifically designed to carry that person in a safe manner.

(3) The following persons shall be required to wear protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times the motorcycles they are riding are in motion on a public highway:

(a) A person under the age of twenty-one (21) years who is operating a motorcycle or who is a passenger on a motorcycle or in a sidecar attachment;

(b) A person who possesses a motorcycle instruction permit and who is operating a motorcycle;~~[and]~~

(c) A person who has held a valid motorcycle operator's license, or combination motor vehicle-motorcycle operator's license, for less than one (1) year and who is operating a motorcycle*; and*

(d) Any person who does not provide proof of health insurance to the county clerk when registering a motorcycle in accordance with Section 6 of this Act.

(4) A motorcycle operator authorized to drive a motorcycle on an instruction permit shall not be authorized to carry passengers.

(5) The secretary of the Transportation Cabinet shall by regulation fix minimum standards for approved protective headgear and for approved eye-protective devices, and prescribe the manner in which they shall be used. The secretary shall maintain and cause to be published a list of approved protective headgear and of approved eye-protective devices. The secretary may prescribe by regulation minimum standards for other protective devices and require the use of those devices.

(6) As used in this chapter:

(a) "Motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three (3) wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride in an enclosed cab and excluding a moped as defined in this subsection; and

(b) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

SECTION 6. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) A person over the age of twenty-one (21) years who wishes to operate a motorcycle without wearing protective headgear shall provide proof of health insurance coverage to the county clerk when obtaining or renewing the registration on any motorcycle registered in that person's name. The Transportation Cabinet shall develop, and the county clerk shall provide to the applicant, a decal to affix to the applicant's license plate signifying that the applicant has health insurance and may operate a motorcycle without wearing protective headgear. The applicant shall pay a fee of three dollars ($3) to the county clerk for the decal.

(2) The county clerk shall notify the insured that upon nonrenewal or cancellation of a health insurance policy for a person under subsection (1) of this section, the insurer shall immediately notify the Department of Vehicle Regulation.

(3) Upon notification to the Department of Vehicle Regulation from an insurance company of the cancellation or nonrenewal of a policy under subsection (2) of this section, the department shall immediately notify the individual. Notification of the individual shall state that the individual's policy is no longer valid and that the individual shall have thirty (30) days to show proof of health insurance to the department or the county clerk. The department shall further inform the individual that if evidence of health insurance coverage is not received within thirty (30) days, the department shall suspend the operator's license of the individual for ninety (90) days, or until that person presents proof of health insurance to the department or the county clerk and pays the reinstatement fee required under KRS 186.440 and the relicensing fee required under KRS 186.450."; and

By renumbering subsequent section accordingly.

Floor Amendment No. 6 to **HB 576**, by Representative Stumbo:

On page 6, line 27, through page 7, line 4, by deleting all new language and by removing all brackets and strikethroughs; and

On page 17, lines 25 and 26, by deleting all new language; and

On page 17, line 26, through page 18, line 5, by removing all brackets and strikethroughs; and

On page 17, line 26, after "officers", by bracketing and striking through ", dog wardens,"; and

On page 18, line 1, after "officer", by bracketing and striking through ", dog warden,"; and

On page 18, line 4, after the first "officer", by bracketing and striking through ", dog warden,"; and

On page 19, line 26, through page 20, line 6, by removing all brackets and strikethroughs; and

On page 19, line 26, after "*impoundment*", by inserting "*.*"; and

On page 19, at the beginning of line 27, by inserting "*(6)*", and by bracketing and striking through "(2)".

Floor Amendment No. 2 to the Committee Substitute to **HB 618**, by Representative P. Clark:

On Page 1, after the title, by deleting the remainder of the page in its entirety; and

On Page 2, lines 1 -21, by deleting them in their entirety and inserting and underlining in lieu thereof,

"SECTION 1. A NEW SECTION OF KRS CHAPTER 77 IS CREATED TO READ AS FOLLOWS:

(1) If on the date of the approval of a consolidated local government, the county containing the adopted consolidated local government is in attainment of the air quality standards established by the Federal Environmental Protection Agency for ozone, carbon monoxide, and nitrogen dioxide, the air pollution control district board in that county shall take the necessary actions to eliminate any vehicle emissions testing program operated in the county by November 1, 2003. The air pollution control district board shall not enter into or renew any contracts with any vendors for the operation of a vehicle emissions testing program which would extend beyond this date.

(2) If a consolidated local government should be notified at a later date of the county's nonattainment of the air quality standards established by the Federal Environmental Protection Agency for ozone, carbon monoxide, and nitrogen dioxide, notwithstanding the provisions of KRS 77.115, 224.20-130 or 224.20-760 to the contrary, the consolidated local government shall determine the need for the reestablishment, administration, operation, and the role, if any, of an air pollution control district if a vehicle emissions testing program is recreated by the consolidated local government in accordance with KRS 224.20-710 to 224.20-765. Nothing in KRS Chapters 77 and 224 shall preclude a consolidated local government from utilizing other methods and procedures for reaching attainment of the air quality standards established by the Federal Environmental Protection Agency for ozone, carbon monoxide, and nitrogen dioxide.".

Floor Amendment No. 1 to **HB 657**, by Representative Treesh:

On page 1, line 22, after "exceed" by inserting "the lesser of" and

On page 1, line 23, after "budget" by inserting "or the cost-of-living raise provided teachers in the state/executive branch budget bill,".

Floor Amendment No. 1 to **SB 170**, by Representative Damron:

On page 1, line 3, after "*broker,*" by inserting "*real estate appraiser licensed or certified under KRS Chapter 324A,*"; and

On page 1, line 6, after "*brokers,*" by inserting "*KRS 324A.010 for real estate appraisers,*"; and

On page 2, line 8, after "*broker,*" by inserting "*real estate appraiser licensed or certified under KRS Chapter 324A,*".

Floor Amendment No. 8 to the Committee Substitute No. 2 to **HB 68**, by Representative Feeley:

On page 2, line 7, after the semicolon ";" remove the brackets and strike throughs from the word "or"; and

On page 2, lines 9 through 13, delete the new language on lines 9 through 13, and on line 13 retain the existing period "."; and

On page 2, lines 14 through 16, remove the brackets and strike throughs from lines 14 through 16; and

On page 2, line 17, remove the strike throughs and closing bracket "]" from the subsection number "(8)" and delete the word "*subsection*" and remove the brackets and strike throughs from the word "subsections" and also from the word and number "and (7)"; and

On page 2, line 19, delete the word "*subsection*" and remove the brackets and strike throughs from the word "subsections" and also from the word and number "and (7)"; and

On page 2, between lines 20 and 21, add a new subsection (9) to read as follows:

"*(9) If, when investigating a traffic accident, a peace officer determines that an operator of a motor vehicle, or any passenger in a vehicle, was not wearing a seat belt as required under subsection (6) of this section, the owner of the motor vehicle shall have the deductible on the motor vehicle insurance policy tripled. All insurance companies selling policies on motor vehicles in this state shall comply with tripling the deductible of persons identified in this subsection. The officer investigating the accident shall note on the accident report if the operator of a vehicle, or a passenger in a vehicle, was not wearing a seat belt as required under subsection (6) of this section.*"; and

On page 9, lines 14 through 19, by deleting lines 14 through 19 in their entirety.

Floor Amendment No. 4 to the Committee Substitute to **HB 685**, by Representative Ford:

On page 1, line 1, insert two new sections to read as follows:

"Section 1. KRS 186A.510 is amended to read as follows:

As used in KRS 186A.500 to 186A.550, unless the context otherwise requires:

(1) "Brand" means a designation that is affixed as required by this chapter, or that has previously been affixed, to a motor vehicle title that establishes a portion of the history of the motor vehicle and that shall be fixed to all subsequently issued titles for that vehicle;

(2) "Dealer" means a person or business as defined in KRS 190.010 who sells or offers for sale a motor vehicle;

(3) *"Insurance company" means an insurer as defined in KRS 304.1-040;*

(4) "Junk vehicle" means a vehicle which meets the description set forth in KRS 186A.295(1)(a);

(5)[~~(4)~~] "Motor vehicle" means a motor vehicle as defined in KRS 186.010(8)(a) and (b);

(6)[~~(5)~~] "Owner" means a person who holds the legal title of a vehicle or a person who pursuant to a bona fide sale has received physical possession of the vehicle subject to any applicable security interest;

(7)[~~(6)~~] "Rebuilt vehicle" means a vehicle that has been repaired to a road worthy condition after having been registered as a salvage vehicle pursuant to KRS 186A.520, or a similar salvage designation from another licensing jurisdiction; and

(8)[~~(7)~~] "Water damage" means damage to a motor vehicle caused by submerging or partially submerging the vehicle in water to the extent that the vehicle was submerged or partially submerged at any water level above the dashboard of the vehicle, regardless of the actual dollar amount of the damage.

SECTION 2. A NEW SECTION OF KRS 186A.500 TO 186A.550 IS CREATED TO READ AS FOLLOWS:

(1) When an insurance company buys a motor vehicle currently registered and titled which meets the definition of a salvage vehicle under KRS 186A.520 and which the insurance company holds for resale, the insurance company shall not be required to obtain a certificate of title for the salvage vehicle but shall, within fifteen (15) days after acquiring the vehicle, notify the county clerk of the assignment of the vehicle to the insurance company and pay the fee for the title application as required by KRS 186A.130(1). An insurance company assigning a title under this section shall be required to pay the county clerk a three dollar ($3) fee for each title the clerk assigns for the insurance company. If an insurance company fails to assign the vehicle under the provisions of this section, the insurance company shall follow the procedures governing the issuance of a salvage title under KRS 186A.520 and 186A.530.

(2) Upon purchasing a salvage vehicle, an insurance company shall obtain from the transferor, properly executed, all documents required by KRS 186A.215, and shall include the odometer disclosure statement, together with a properly assigned certificate of title.

(3) The insurance company choosing to execute an application for assignment shall do so upon documents designated by the Department of Vehicle Regulation to the county clerk of the county in which the insurance company or its agent maintains its principal place of business. The clerk shall enter the assignment into the AVIS system. When a county clerk assigns a title under this section, the clerk shall be required to stamp the back of the title where the insurance company is making the assignment with a brand. The purpose of the brand stamped on the back of the title is to ensure that future owners of the vehicle will be informed it is a salvage vehicle and to prohibit another state from mistakenly issuing a clean title on the salvage vehicle. The Transportation Cabinet shall provide mandatory training for all county clerks and clerk's deputies to inform the clerks of the required duty to stamp a brand on the back of the title of salvage vehicles being assigned by an insurance company.

(4) The insurance company shall retain the properly assigned certificate of title received from his transferor, and may make only one (1) reassignment under this section. The insurance company may use the dealer assignment section on the Kentucky certificate of title for the purpose of the assignment under this section.

(5) When an insurance company assigns a salvage vehicle to a purchaser under this section, the insurance company or its agent shall deliver the properly assigned and branded certificate of title, and other documents if appropriate, to the purchaser who shall apply for a Kentucky salvage title. The insurance company may, with the consent of the purchaser, deliver the assigned certificate of title, and other documents if appropriate, directly to the county clerk, and on behalf of the purchaser, apply for a salvage title on the vehicle."; and

On page 1, line 1, renumber existing "Section 1" as "Section 3"; and

On page 1, line 18, after the subsection number "(2)" insert "*Except as provided in Section 2 of this Act,*" and making "The" lower-case; and

On page 2, line 1, delete all the new language and remove the opening bracket "[" and strike through from the word "a"; and

On page 2, line 2, remove the strike throughs and closing bracket "]" from the entire line; and

On page 2, line 4, delete all the new language and remove the opening bracket "[" and strike throughs from "a manner similar to that" ; and

On page 2, line 5, remove the strike throughs and closing bracket "]" from the words "used in processing a title application" and delete the word "*the*"; and

On page 2, line 6, delete the words "*same way as*" and remove the brackets and strike throughs from the words "a like manner of" and delete the word "*speed*"; and

On page 2, beginning on line 14, and continuing through page 3, line 3, delete existing Section 2 amending KRS 186A.130 in its entirety and insert in lieu thereof the following:

"Section 4. KRS 186A.990 is amended to read as follows:

(1) Any person who knowingly gives false, fraudulent, or erroneous information in connection with an application for the registration, and when required, titling of a vehicle, or any application for assignment of a vehicle identification number, or replacement documents, or gives information in connection with his review of applications, or falsely certifies the truthfulness and accuracy of information supplied in connection with the registration and when required, titling of a vehicle, shall be guilty of forgery in the second degree.

(2) Any person who violates KRS 186A.260 or KRS 186A.275 to 186A.285 shall be guilty of a Class D felony.

(3) Any person who violates KRS 186A.300 to 186A.315 shall be guilty of a Class D felony.

(4) Any person who operates a motor vehicle or trailer upon the highways of this state without a temporary tag when one is required, or with one that is expired, improperly executed, or displayed on a vehicle other than the one (1) to which it was legitimately and lawfully issued, shall be guilty of a Class B misdemeanor.

(5) Any person who violates the disclosure provisions of KRS 186A.530(7) shall be guilty of a Class A misdemeanor.

(6) Any person who violates any provisions of this chapter, or regulations promulgated pursuant thereto, and for which a specific penalty is not prescribed by statute, shall be guilty of a Class A misdemeanor.

(7) Criminal remedies or sanctions provided in this chapter are in addition to, and not exclusive of, any other criminal remedies or sanctions provided elsewhere in the statutes.

(8) In addition to other penalties established under this chapter, an insurance company shall be fined five thousand dollars ($5,000) if the insurance company knowingly sells a salvage vehicle by assignment as provided under Section 2 of this Act, that has not had the assignment on the title properly branded by a county clerk.".

Floor Amendment No. 1 to the Committee Substitute to **HB 846**, by Representative Thomas:

On page 12, after line 16, by inserting the following:

"(2) The Legislative Research Commission is also directed to have a study conducted by the Interim Joint Committee on State Government which shall focus on the entire state-sponsored health insurance program and shall report its findings to the Legislative Research Commission on or before October 1, 2003."; and

On page 12, line 17, by renumbering "(2)" as "(3)".

Floor Amendment No. 6 to the Committee Substitute to **SB 2**, by Representative Marzian:

On page 3, line 1, after "*19.*" by deleting all remaining text on lines 1 through 4;

On page 3, line 5, by deleting "*20.*";

On page 3, line 9, by deleting "*21.*" and inserting "*20.*" in lieu thereof;

On page 3, line 11, by deleting "*22.*" and inserting "*21.*" in lieu thereof;

On page 3, line 13, by deleting "*23.*" and inserting "*22.*" in lieu thereof;

On page 3, line 18, by deleting "*24.*" and inserting "*23.*" in lieu thereof; and

On page 4, line 12, after "quorum" by inserting "*consisting of a simple majority*" and deleting "*sixteen (16)*".

Floor Amendment No. 7 to the Committee Substitute to **SB 2**, by Representative Nunn:

On page 13, line 23, after "diagnoses;" by bracketing and striking through "and";

On page 14, line 1, after "efforts" by inserting "*; and*

(f) Recommend statutory, regulatory, and policy changes to improve access to mental health screening, evaluation, and treatment for juveniles in detention centers and for prisoners in all county and city jails in Kentucky by July 15, 2003. The recommendations shall be sent to the Jail Standards Commission";

On page 22, after line 4, by inserting the following:

"Section 10. KRS 441.105 is amended to read as follows:

(1) The jailer shall:

(a)[~~(1)~~] Submit a quarterly report to the fiscal court concerning the physical condition of the jail, the number of jail personnel and personnel needs, and other matters requested by the fiscal court.

(b)[~~(2)~~] Submit a monthly report to the department, on forms supplied by the department, containing, but not limited to, the following information on each prisoner:

1.[~~(a)~~] The unit of government whose law the prisoner is charged with violating, the statute or ordinance the prisoner is charged with violating, and whether the charge is a felony or misdemeanor;

2.[~~(b)~~] The status of the prisoner, whether pending trial or post conviction;

3.[~~(c)~~] The age and sex of the prisoner; [~~and~~]

4.[~~(d)~~] The county responsible for the incarceration of the prisoner***; and***

5. The provision of mental health screening, evaluation, or treatment.

(c) Submit a report to the department within twenty-four (24) hours of any prisoner's suicide attempt or any prisoner's suicide.

(2) The department shall consolidate the information contained in the reports required by subsections (2) and (3) of this section and submit one (1) statewide report by September 1 each year that contains information on the provision of mental health services to prisoners and suicides and suicide attempts to the Department for Mental Health and Mental Retardation Services of the Cabinet for Health Services and to the Kentucky Commission on Services and Supports to Individials with Mental Illness, Alcohol and Other Drug Disorders, and Dual Diagnoses.

Section 11. KRS 441.115 is amended to read as follows:

(1) For the purpose of raising the level of competence of jailers and jail personnel, the department shall maintain a jail staff training program to provide training for jailers and jail personnel consistent with the standards promulgated pursuant to KRS 441.055 and shall keep records of jailers and jail personnel who satisfactorily complete basic and annual continuing education. The training program shall include training on the human immunodeficiency virus infection and acquired immunodeficiency syndrome approved by the Cabinet for Health Services***, and mental health screening and suicide prevention***. A curriculum advisory committee composed of jailers, their representatives, and recognized professionals in the field of jail administration shall advise the department concerning the training needs of jailers and jail personnel. The jail staff training program shall be directed and staffed, in coordination with the Governmental Services Center at Kentucky State University, by knowledgeable persons who have sufficient experience, training, and education in jail operations. The department shall not charge a fee for training jailers, their deputies, or jailers-elect.

(2) Beginning in August, 1982, each jailer shall receive an expense allowance to help defray the costs of his participation in the jail staff training program. The expense allowance shall be in the amount of three hundred dollars ($300) per month payable out of the State Treasury. Expense allowance payments shall be discontinued if the jailer fails to satisfactorily complete annual continuing training. Expense allowance payments shall be resumed following a discontinuance for failure to satisfactorily complete basic or annual training only upon the jailer's satisfactory completion of the training.

(3) The allowance authorized in subsections (2) and (4) of this section shall be considered as operating expenses of the jailer's office and shall not be considered as part of his compensation. Jailers shall not be required to keep records verifying the expenditures from the allowance provided by the state.

(4) In order to receive the expense allowance for their first year in office, jailers who have been elected to office for the first time, shall, before taking office, successfully complete a training program designed for new jailers and conducted by the personnel of the jail staff training program. This provision shall not apply if the jailer-elect is ill and unable to complete the training before taking office. In such cases, the jailer-elect shall successfully complete a new jailer training program during his first year in office in order to receive the expense allowance. The county or urban-county government in which the jailer-elect serves shall pay out of the jail budget, once he takes office, all necessary and reasonable travel expenses incurred by the jailer-elect in attending the new jailer training program.

(5) All jailers shall successfully complete the training required. If a jailer does not successfully complete the required training within the time specified, he shall not receive the expense allowance specified in subsection (2) of this section until he successfully completes the required training.

Section 12. KRS 441.055 is amended to read as follows:

(1) The Department of Corrections shall for those counties which elect to house state prisoners in their jail:

(a) Adopt the recommendations of the Jail Standards Commission created pursuant to Executive Order Number 81-1026 and promulgate regulations pursuant to KRS Chapter 13A establishing minimum standards for jails. These standards shall include, but not be limited to, rules governing the following areas:

1. Health and safety conditions;

2. Fire safety;

3. Jail operations, recordkeeping, and administration;

4. Curriculum of basic and continuing annual training for jailers and jail personnel, including ***mental health***

screening, suicide prevention, and training relating to juvenile holding facilities;

5. Custody, care, and treatment of prisoners;
6. Medical care***, including working agreements for mental health screening, evaluation, and treatment of prisoners***; and
7. Jail equipment, renovation, and construction;

(b) Develop a jail standards review process, which shall include the participation of persons knowledgeable of jail operations to review and amend the standards as necessary. The jail standards shall be reviewed no later than December 31, 1992, and at least every two (2) years thereafter. Fifty percent (50%) of the participants in the review process shall be appointed from persons representing county interests and fifty percent (50%) shall be appointed from persons representing state interests; and

(c) Provide technical assistance and consultation to local governments in order to facilitate compliance with standards.

(2) The department shall, for those counties that elect not to hold state prisoners in their jails, adopt the recommendations of the Jail Standards Commission and promulgate administrative regulations pursuant to KRS Chapter 13A to establish minimum standards for those jails. These standards shall be limited to health and life safety***, and working agreements for mental health screening, evaluation, and treatment***.

(3) The department may establish classifications of jails based on the maximum permissible period of incarceration or other criteria and promulgate standards for each class of jail.

Section 13. KRS 210.400 is amended to read as follows:

Subject to the provisions of this section and the policies and regulations of the secretary of the Cabinet for Health Services, each community mental health-mental retardation board shall:

(1) Review and evaluate mental health and mental retardation services provided pursuant to KRS 210.370 to 210.460, and report thereon to the secretary of the Cabinet for Health Services, the administrator of the program, and, when indicated, the public, together with recommendations for additional services and facilities;

(2) Recruit and promote local financial support for the program from private sources such as community chests, business, industrial and private foundations, voluntary agencies, and other lawful sources, and promote public support for municipal and county appropriations;

(3) Promote, arrange, and implement working agreements with other social service agencies, ***local and regional jails and detention facilities,*** both public and private, and with other educational and judicial agencies;

(4) Adopt and implement policies to stimulate effective community relations;

(5) Be responsible for the development and approval of an annual plan and budget;

(6) Act as the administrative authority of the community mental health and mental retardation program; and

(7) Oversee and be responsible for the management of the community mental health and mental retardation program in accordance with the plan and budget adopted by the board and the policies and regulations issued under KRS 210.370 to 210.480 by the secretary of the Cabinet for Health Services.

Section 14. If the 2003-2004 executive budget and accompanying memoranda provide duties for the Kentucky Commission on Services and Supports to Individuals with Mental Illness, Alcohol and Other Drug Disorders, and Dual Diagnoses relating to the provision of mental health services in jails, including juvenile detention centers, those provisions shall take precedence over subsection (3)(f) of Section 5 of this Act.".

Floor Amendment No. 8 to **SB 2**, by Representative Crimm:

On page 12, line 26 after "(e)" by inserting the following:

"***No later than November 30, 2002, study and make recommendations to the General Assembly regarding the implementation of an advance directive for mental health treatment;***

(f)".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 354, Representative Colter

HB 545, Representative Hoffman

HB 637, Representative Colter

HB 689, Representative Colter

HB 801, Representative R. Adams

HB 874, Representative Graham

HCR 161, Representatives P. Clark, Horlander, and Stewart.

The following member filed a request to have his name withdrawn as co-sponsor of a Bill:

HB 497, Representative Gray.

Announcements

The following meetings were announced:

Appropriations and Revenue: Tuesday, March 12, 2002, 10:00 a.m.

Labor and Industry: Tuesday, March 12, 2002, noon, Room 125

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m. on Tuesday, March 12, 2002.

The motion that the House adjourn until 2:00 p.m., Tuesday, March 12, 2002, was adopted by voice vote.

TUESDAY, MARCH 12, 2002

FORTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Roger Newell, Parkside United Methodist Church, Louisville, KY.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of Monday, March 11, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HR 230, by Representative R. Adams: A RESOLUTION adjourning the House of Representatives in honor of Catherine Sue Rupard Helburn upon the occasion of her ninetieth birthday.

HR 231, by Representative Haydon: A RESOLUTION adjourning the House of Representatives in honoring of Louis B. "Bert" Ballard.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HCR 226**

Education: **SB 241**

Licensing and Occupations: **SB 123**

Local Government: **SB 197**

State Government: **SB 231**

Floor Resolutions: **HR 227, 228**

Report of Committees

The Committee on Rules reported that **HB 76, HB 184, HB 405, HB 519,** and **HB 628** have been posted for passage in the Orders of the Day for March 13, 2002.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **SB 38, SB 187**

Health and Welfare: **SB 142**

Judiciary: **HB 580**

Report of Committees

The Committee on Seniors, Military Affairs, and Public Safety reported **HB 746**, with Committee Substitute and Committee Amendment attached thereto, **HB 769**, **HB 795**, and **HB 842**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 746, AN ACT relating to food sanitation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 217.280 TO 217.390 IS CREATED TO READ AS FOLLOWS:

In addition to any other provision of law, all persons who directly handle food or handle an open container of food in any place provided in KRS 217.280 shall wear rubber or latex gloves or similar hand coverings while engaged in the process of preparing, serving, or handling food intended for distribution for public consumption on salad bars, hot bars, buffets, dessert bars, and soup bars.

The Committee Substitute to **HB 746** is as follows:

HB 746, AN ACT relating to food sanitation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 413.248 is amended to read as follows:

(1) A person*, including an establishment holding a permit under KRS 217.125 or 219.021,* who donates apparently wholesome food to a nonprofit organization for distribution to the needy is not subject to civil or criminal liability that arises from the condition of the food, unless an injury or death results from an act or omission of the donor which constitutes gross negligence, recklessness, or intentional misconduct.

(2) A nonprofit organization that distributes apparently wholesome food to the needy at no charge and that substantially complies with applicable local, county, state, and federal laws and regulations regarding the storage and handling of food for distribution to the public is not subject to civil or criminal liability that arises from the condition of the food, unless an injury or death results from an act or omission of the organization that constitutes gross negligence, recklessness, or intentional misconduct.

(3) This section does not create any liability.

The Committee Amendment No. 1 Title to **HB 746** is as follows:

Amend the title to read as follows: "AN ACT relating to food donated to nonprofit organizations."

HB 769, AN ACT relating to a consistent public policy for the provision of services to persons with disabilities and the frail elderly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that, in preparation of any budget in accordance with this chapter, consideration should be given to a consistent public policy for persons with disabilities and the frail elderly and their informal caregivers, providing them with the following rights and responsibilities:

(1) The right to individual independence, dignity, privacy, and respect;

(2) The right to individual choice regarding planning and managing of programs to assist with living in the community in the place of their choice;

(3) The right to be educated about their rights and choices regarding state and local programs;

(4) The right to a timely evaluation of their ability to live in or return to the community;

(5) The right to appropriate community-based services and a full range of choices to support an integrated and seamless continuum of care;

(6) The right to a high quality of care, regardless of setting, whether the care is given in an institution, in the home, or in the community; and

(7) The right to fiscally sound programs and funding mechanisms that support them to remain in their home and community of choice.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that persons with disabilities and the frail elderly and their informal caregivers should be supported by consistent public policy for the provision of care, with rights and responsibilities as follows:

(1) The right to individual independence, dignity, privacy, and respect;

(2) The right to individual choice regarding planning and managing of programs to assist with living in the community in the place of their choice;

(3) The right to be educated about their rights and choices regarding state and local programs;

(4) The right to a timely evaluation of their ability to live in or return to the community;

(5) The right to appropriate community-based services and a full range of choices to support an integrated and seamless continuum of care;

(6) The right to a high quality of care, regardless of setting, whether the care is given in an institution, in the home, or in the community; and

(7) The right to fiscally sound programs and funding mechanisms that support them to remain in their home and community of choice.

HB 795, AN ACT relating to occupations and professions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 335B.020 TO 335B.070 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "continuing education requirements" means any requirements in which additional education and training are imposed upon a person engaged in an occupation by a licensing authority. This term shall include any requirements for additional training or course work, whether academic, practical, or hands-on, on which the person's licensing or the renewal thereof or maintaining the person's active status in the occupation is conditioned.

(2) Notwithstanding any provisions of the Kentucky Revised Statutes or any ordinance, resolution, or order of any local government to the contrary, the licensing authority of any occupation that requires a person engaged in the occupation to complete continuing education requirements shall excuse any person on active military duty in the Armed Forces of the United States or the National Guard from meeting the continuing education requirements imposed by the licensing authority during the period in which the person is on active duty. If a person is not on active military duty during the entire period for which the continuing education requirements are imposed, the licensing authority may prorate the continuing education requirements, and the person shall not be required to complete any portion of the requirements that represents the period in which the person was on active duty.

HB 842, AN ACT relating to the Kentucky Commission on Elder Abuse.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 209.005 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The Kentucky Commission on Elder Abuse is hereby created.

(2) The commission shall be composed of the following members:

- *(a) The director of the Division of Protection and Permanency, Cabinet for Families and Children, or a designee;*
- *(b) The executive director of the Office of Aging Services, Cabinet for Health Services, or a designee;*
- *(c) The director of the Area Agencies on Aging, Department for Local Government, Office of the Governor, or a designee;*
- *(d) One (1) employee of the Office of the Attorney General who shall be appointed by the Attorney General;*
- *(e) The commissioner of the Department for Community Based Services, Cabinet for Families and Children, or a designee;*
- *(f) One (1) employee of the Office of the Inspector General, Cabinet for Health Services, who shall be appointed by the Inspector General;*
- *(g) The commissioner of the Department for Insurance, Public Protection and Regulation Cabinet, or a designee;*
- *(h) The long term care ombudsman, the Office of Aging Services, Cabinet for Health Services, or a designee;*
- *(i) The commissioner of the Department for Medicaid Services, Cabinet for Health Services, or a designee;*
- *(j) The commissioner of the Department for Mental Health and Mental Retardation Services, Cabinet for Health Services, or a designee;*
- *(k) The director of the Division of Public Advocacy, Department of Public Advocacy, Public Protection and Regulation Cabinet, or a designee;*
- *(l) The commissioner of the Department for Public Health, Cabinet for Health Services, or a designee;*
- *(m) One (1) employee of the Cabinet for Workforce Development who shall be appointed by the cabinet secretary;*
- *(n) One (1) representative from the Sanders Brown Center on Aging at the University of Kentucky who shall be appointed by the Governor;*
- *(o) One (1) representative from the University of Louisville who shall be appointed by the Governor;*
- *(p) The executive director of the Office of the Ombudsman, Cabinet for Families and Children, or a designee;*
- *(q) Six (6) citizen members to be appointed by the secretary of the Cabinet for Families and Children;*
- *(r) Two (2) members of the General Assembly, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives; and*

(s) One (1) law enforcement officer who is a detective with experience in conducting elder abuse investigations who shall be appointed by the secretary of the Justice Cabinet.

(3) The commission shall elect co-chairs annually from its membership.

(4) A majority of the voting members shall constitute a quorum for the transaction of any business and special meetings shall be called in accordance with KRS 61.823.

(5) Meetings of the commission shall be open and accessible to the public in accordance with KRS 61.805 to 61.850.

SECTION 2. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

(1) The Commission on Elder Abuse shall:

(a) Adopt by-laws for regular operations;

(b) Develop a work plan to include the following:

1. Coordination of constituent calls with various state programs;

2. Provide public awareness resources on elder maltreatment; and

3. Coordinate media campaigns on elder maltreatment;

(c) Act as a liaison for the Governor's Office, the members of the General Assembly, and the public;

(d) Develop a state coordinating council on elder maltreatment to facilitate the development of local coordinating councils in accordance with model protocols;

(e) Identify and keep an up-to-date list of local community partners that address elder abuse issues;

(f) Distribute and update the model protocols on elder maltreatment and services to all appropriate agencies;

(g) Make recommendations for training and education on specified elder issues;

(h) Recommend model curriculum and trainer requirements for elder maltreatment education;

(i) Make recommendations on grant applications and funding sources for special projects;

(j) Serve as a depository for information on statewide elder issues; and

(k) Make recommendations for pilot projects.

(2) The commission shall submit an annual report on activities, products, and recommendations for public policy to the General Assembly, the Governor's Office, the secretary of the Cabinet for Families and Children, the secretary of the Cabinet for Health Services, the Office of the Attorney General, the secretary of the Justice Cabinet, and the secretary of the Public Protection and Regulation Cabinet by September 30 of each year. Public policy recommendations may include changes in state programs, legislation, administrative regulations, policies, treatments, and services and supports that may facilitate effective coordination, prevention, and intervention of elder abuse cases, the investigation, prosecution, and treatment of perpetrators of elder abuse, and the access of victims to services and supports.

Section 3. KRS 209.030 is amended to read as follows:

(1) The secretary may, within his discretion, adopt such rules, regulations, procedures, guidelines, or any other expressions of policy necessary to effect the purpose of this chapter insofar as such action is reasonably calculated to serve the public interest. The secretary may take necessary action and may offer or cause to be offered protective services toward safeguarding the welfare of an adult who has experienced abuse or neglect, inflicted or caused by a spouse.

(2) Any person, including, but not limited to, physician, law enforcement officer, nurse, social worker, cabinet personnel, coroner, medical examiner, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.

(3) An oral or written report shall be made immediately to the cabinet upon knowledge of the occurrence of suspected abuse, neglect, or exploitation of an adult. Any person making such a report shall provide the following information, if known: The name and address of the adult, or of any other person responsible for his care; the age of the adult; the nature and extent of the abuse, neglect, or exploitation, including any evidence of previous abuse, neglect, or exploitation; the identity of the perpetrator, if known; the identity of the complainant, if possible; and any other information that the person believes might be helpful in establishing the cause of abuse, neglect, or exploitation.

(4) Upon receipt of the report, the cabinet shall take the following action as soon as practical:

(a) Notify the appropriate law enforcement agency;

(b) Initiate an investigation of the complaint; and

(c) Make a written report of the initial findings together with a recommendation for further action, if indicated.

(5) Any representative of the cabinet may enter any health facility or health service licensed by the Cabinet ***for Health Services*** at any reasonable time to carry out the cabinet's responsibilities under this chapter. Any representative of the cabinet actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall also be allowed access to~~[the mental and physical health]~~ records*, as defined in KRS 209.020* of the adult which are in the

possession of any individual, hospital, or other facility if necessary to complete the investigation mandated by this chapter.

(6) Any representative of the cabinet may with consent of the adult or caretaker enter any private premises where any adult alleged to be abused, neglected, or exploited is found in order to investigate the need for protective services for the purpose of carrying out the provisions of this chapter. If the adult or caretaker does not consent to the investigation, a search warrant may issue upon a showing of probable cause that an adult is being abused, neglected, or exploited, to enable a representative of the cabinet to proceed with the investigation.

(7) If a determination has been made that protective services are necessary when indicated by the investigation, the cabinet shall provide such services within budgetary limitations, except in such cases where an adult chooses to refuse such services.

(8) In the event the adult elects to accept the protective services to be provided by the cabinet, the caretaker shall not interfere with the cabinet when rendering such services.

The Committee Substitute to **HB 842** is as follows:

HB 842, AN ACT relating to the Kentucky Commission on Elder Abuse.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 209.005 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The Kentucky Commission on Elder Abuse is hereby created.

(2) The commission shall be composed of the following members:

- ***(a) The director of the Division of Protection and Permanency, Cabinet for Families and Children, or a designee;***
- ***(b) The executive director of the Office of Aging Services, Cabinet for Health Services, or a designee;***
- ***(c) The director of the Area Agencies on Aging, Department for Local Government, Office of the Governor, or a designee;***
- ***(d) One (1) employee of the Office of the Attorney General who shall be appointed by the Attorney General;***
- ***(e) The commissioner of the Department for Community Based Services, Cabinet for Families and Children, or a designee;***
- ***(f) One (1) employee of the Office of the Inspector General, Cabinet for Health Services, who shall be appointed by the Inspector General;***
- ***(g) The commissioner of the Department for Insurance, Public Protection and Regulation Cabinet, or a designee;***
- ***(h) The long term care ombudsman, the Office of Aging Services, Cabinet for Health Services, or a designee;***
- ***(i) The commissioner of the Department for Medicaid Services, Cabinet for Health Services, or a designee;***
- ***(j) The commissioner of the Department for Mental Health and Mental Retardation Services, Cabinet for Health Services, or a designee;***
- ***(k) The director of the Division of Public Advocacy, Department of Public Advocacy, Public Protection and Regulation Cabinet, or a designee;***
- ***(l) The commissioner of the Department for Public Health, Cabinet for Health Services, or a designee;***
- ***(m) One (1) employee of the Cabinet for Workforce Development who shall be appointed by the cabinet secretary;***
- ***(n) One (1) representative from the Sanders Brown Center on Aging at the University of Kentucky who shall be appointed by the Governor;***
- ***(o) One (1) representative from the University of Louisville who shall be appointed by the Governor;***
- ***(p) The executive director of the Office of the Ombudsman, Cabinet for Families and Children, or a designee;***
- ***(q) Six (6) citizen members to be appointed by the secretary of the Cabinet for Families and Children;***
- ***(r) Two (2) members of the General Assembly, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives; and***
- ***(s) One (1) law enforcement officer who is a detective with experience in conducting elder abuse investigations who shall be appointed by the secretary of the Justice Cabinet.***

(3) The commission shall elect co-chairs annually from its membership.

(4) A majority of the voting members shall constitute a quorum for the transaction of any business and special meetings shall be called in accordance with KRS 61.823.

(5) Meetings of the commission shall be open and accessible to the public in accordance with KRS 61.805 to 61.850.

SECTION 2. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

(1) The Commission on Elder Abuse shall:

- ***(a) Adopt by-laws for regular operations;***

(b) Develop a work plan to include the following:

  1. Coordination of constituent calls with various state programs;

  2. Provide public awareness resources on elder maltreatment; and

  3. Coordinate media campaigns on elder maltreatment;

(c) Act as a liaison for the Governor's Office, the members of the General Assembly, and the public;

(d) Develop a state coordinating council on elder maltreatment to facilitate the development of local coordinating councils in accordance with model protocols;

(e) Identify and keep an up-to-date list of local community partners that address elder abuse issues;

(f) Distribute and update the model protocols on elder maltreatment and services to all appropriate agencies;

(g) Make recommendations for training and education on specified elder issues;

(h) Recommend model curriculum and trainer requirements for elder maltreatment education;

(i) Make recommendations on grant applications and funding sources for special projects;

(j) Serve as a depository for information on statewide elder issues; and

(k) Make recommendations for pilot projects.

(2) The commission shall submit an annual report on activities, products, and recommendations for public policy to the General Assembly, the Governor's Office, the secretary of the Cabinet for Families and Children, the secretary of the Cabinet for Health Services, the Office of the Attorney General, the secretary of the Justice Cabinet, and the secretary of the Public Protection and Regulation Cabinet by September 30 of each year. Public policy recommendations may include changes in state programs, legislation, administrative regulations, policies, treatments, and services and supports that may facilitate effective coordination, prevention, and intervention of elder abuse cases, the investigation, prosecution, and treatment of perpetrators of elder abuse, and the access of victims to services and supports.

Section 3. KRS 209.030 is amended to read as follows:

(1) The secretary may, within his discretion, adopt such rules, regulations, procedures, guidelines, or any other expressions of policy necessary to effect the purpose of this chapter insofar as such action is reasonably calculated to serve the public interest. The secretary may take necessary action and may offer or cause to be offered protective services toward safeguarding the welfare of an adult who has experienced abuse or neglect, inflicted or caused by a spouse.

(2) Any person, including, but not limited to, physician, law enforcement officer, nurse, social worker, cabinet personnel, coroner, medical examiner, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.

(3) An oral or written report shall be made immediately to the cabinet upon knowledge of the occurrence of suspected abuse, neglect, or exploitation of an adult. Any person making such a report shall provide the following information, if known: The name and address of the adult, or of any other person responsible for his care; the age of the adult; the nature and extent of the abuse, neglect, or exploitation, including any evidence of previous abuse, neglect, or exploitation; the identity of the perpetrator, if known; the identity of the complainant, if possible; and any other information that the person believes might be helpful in establishing the cause of abuse, neglect, or exploitation.

(4) Upon receipt of the report, the cabinet shall take the following action as soon as practical:

  (a) Notify the appropriate law enforcement agency;

  (b) Initiate an investigation of the complaint; and

  (c) Make a written report of the initial findings together with a recommendation for further action, if indicated.

(5) Any representative of the cabinet may enter any health facility or health service licensed by the Cabinet *for Health Services* at any reasonable time to carry out the cabinet's responsibilities under this chapter. Any representative of the cabinet actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall also be allowed access to~~[the mental and physical health]~~ records*, as defined in KRS 209.020* of the adult which are in the possession of any individual, hospital, or other facility if necessary to complete the investigation mandated by this chapter.

(6) Any representative of the cabinet may with consent of the adult or caretaker enter any private premises where any adult alleged to be abused, neglected, or exploited is found in order to investigate the need for protective services for the purpose of carrying out the provisions of this chapter. If the adult or caretaker does not consent to the investigation, a search warrant may issue upon a showing of probable cause that an adult is being abused, neglected, or exploited, to enable a representative of the cabinet to proceed with the investigation.

(7) If a determination has been made that protective services are necessary when indicated by the investigation, the cabinet shall provide such services within budgetary limitations, except in such cases where an adult chooses to refuse such services.

(8) In the event the adult elects to accept the protective services to be provided by the cabinet, the caretaker shall not interfere

with the cabinet when rendering such services.

Section 4. KRS 209.990 is amended to read as follows:

(1) Anyone knowingly or wantonly violating the provisions of KRS 209.030(2) shall be guilty of a Class B misdemeanor as designated in KRS 532.090. Each violation shall constitute a separate offense.

(2) Any ***person***[~~caretaker~~] who knowingly abuses or neglects an adult is guilty of a Class C felony.

(3) Any ***person***[~~caretaker~~] who wantonly abuses or neglects an adult is guilty of a Class D felony.

(4) Any ***person***[~~caretaker~~] who recklessly abuses or neglects an adult is guilty of a Class A misdemeanor.

(5) Any ***person***[~~caretaker~~] who knowingly exploits an adult, resulting in a total loss to the adult of more than three hundred dollars ($300) in financial or other resources, or both, is guilty of a Class C felony.

(6) Any ***person***[~~caretaker~~] who wantonly or recklessly exploits an adult, resulting in a total loss to the adult of more than three hundred dollars ($300) in financial or other resources, or both, is guilty of a Class D felony.

(7) Any ***person***[~~caretaker~~] who knowingly, wantonly, or recklessly exploits an adult, resulting in a total loss to the adult of three hundred dollars ($300) or less in financial or other resources, or both, is guilty of a Class A misdemeanor.

[~~(8) Any person who knowingly and willfully financially exploits an adult within the meaning of this chapter is guilty of a Class C felony.~~]

The Committee on Labor and Industry reported **HB 732,** with Committee Substitute attached thereto, **HB 782, HB 832** with Committee Substitute attached thereto, and **HB 851** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 732, AN ACT relating to wages and hours.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares it to be a public policy of the Commonwealth to establish a maximum hourly work day and hourly work week for nonsupervisory health facility employees, beyond which the employees shall not be required to perform mandatory overtime work, in order to safeguard their health, efficiency, and general well-being, as well as to ensure that health facilities throughout the Commonwealth operate in a manner that safeguards the health and general well-being of the persons to whom these employees provide services.

SECTION 2. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act:

(1) "Employee" means a nonsupervisory individual employed by a health facility who is involved in direct patient care activities or clinical services.

(2) "Employer" means an individual, partnership, association, corporation, or person or groups of persons acting directly or indirectly in the interest of a health facility.

(3) "Health facility" means a health facility as defined in KRS Chapter 216B.

SECTION 3. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding provisions of the Kentucky Revised Statutes to the contrary, no employee of a health facility shall be required or coerced to accept work in excess of an agreed-to predetermined and regularly scheduled daily work shift, or in excess of forty (40) hours in any one (1) work week.

(2) Nothing in this section shall prohibit an employee from voluntarily accepting additional hours. The refusal to accept additional hours by an employee shall not be grounds for discrimination, dismissal, discharge, or any other penalty, threat of report for discipline or employment decision adverse to the employee.

(3) Subsection (1) of this section shall not apply in the case of a declared emergency as defined in KRS 39A.020, or an unforeseen emergency circumstance which substantially affects or increases the need for health care services, except that an unforeseen emergency circumstance shall not include a labor dispute or a problem that results from chronic short staffing practices by the health facility.

(4) The provisions of Sections 1 to 5 of this Act shall apply to any contract, agreement, or understanding executed or renewed after the effective date of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

An employee who initially reports the violation of Sections 1 to 5 of this Act which leads to any sanctions of the health facility shall have the right to recover any legal fees and other fees and expenses associated with making the report.

SECTION 5. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 5 of this Act shall be cited as the "Safe Nursing and Patient Care Act of 2002."

Section 6. KRS 337.990 is amended to read as follows:

The following civil penalties shall be imposed, in accordance with the provisions in KRS 336.985, for violations of the provisions of this chapter:

(1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense. Each failure to pay an employee the wages when due him under KRS 337.020 shall constitute a separate offense.

(2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(3) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense and shall make full payment to the employee by reason of the violation. Each failure to pay an employee the wages as required by KRS 337.055 shall constitute a separate offense.

(4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) and shall also be liable to the affected employee for the amount withheld, plus interest at the rate of ten percent (10%) per annum.

(5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense and shall make full payment to the employee by reason of the violation.

(6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense and each day that the failure continues shall be deemed a separate offense.

(7) Any employer who violates any provision of KRS 337.275 to 337.325, KRS 337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the commissioner or his authorized representative in the performance of his duties under KRS 337.295, or fails to keep and preserve any records as required under KRS 337.320 and 337.325, or falsifies any record, or refuses to make any record or transcription thereof accessible to the commissioner or his authorized representative shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(8) Any employer who pays or agrees to pay wages at a rate less than the rate applicable under KRS 337.275 and 337.285, or any wage order issued pursuant thereto shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(9) Any employer who discharges or in any other manner discriminates against any employee because the employee has made any complaint to his employer, to the commissioner, or to his authorized representative that he has not been paid wages in accordance with KRS 337.275 and 337.285 or regulations issued thereunder, or because the employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to KRS 337.385, or because the employee has testified or is about to testify in any such proceeding, shall be deemed in violation of KRS 337.275 to 337.325, KRS 337.345, and KRS 337.385 to 337.405 and shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(10) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(11) Any person who violates KRS 337.530 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(12) Any contractor or subcontractor who violates any wage or work hours provision in any contract under KRS 337.505 to 337.550 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense, and the contractor or subcontractor shall make full restitution to all employees to whom he is legally indebted by reason of said violation. The prime contractor shall be jointly and severally liable with a subcontractor for wages due an employee of the subcontractor. For a flagrant or repeated violation the offending contractor or subcontractor shall be barred from bidding on, or working on, any and all public works contracts, either in his name or in the name of any other company, firm, or other entity in which he might be interested for a period of two (2) years from the date of the last offense. Each day of violation shall constitute a separate offense, and the violation as affects each individual worker shall constitute a separate offense.

(13) Any public authority, public official, or member of a public authority who willfully fails to comply or to require compliance with KRS 337.505 to 337.550 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense. Each day of violation shall constitute a separate offense. If a public authority, public official or member of a public authority willfully or negligently fails to comply with KRS 337.505 to 337.550 and the failure results in damages, injury or loss to any person, the public authority, public official, or member of a public authority may be held liable in a civil action.

(14) A person shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) when that person discharges or in any other manner discriminates against an employee because the employee has:

(a) Made any complaint to his employer, the commissioner, or any other person; or

(b) Instituted, or caused to be instituted, any proceeding under or related to KRS 337.420 to 337.433; or

(c) Testified, or is about to testify, in any such proceedings.

(15) (a) Any employer who violates Section 3 of this Act shall be assessed a civil penalty not to exceed one thousand dollars ($1,000) for the first offense, not more than five thousand dollars ($5,000) for subsequent offenses, and each day that the violations occurs shall be deemed a separate offense. Any employer who has been determined to have violated the provisions of Section 3 of this Act on two (2) or more occasions shall be considered to have engaged in a pattern of violations and may be subject to suspension or revocation of its license.

(b) All civil penalties and fines collected under Sections 1 to 5 of this Act shall be paid to the Kentucky Board of Nursing to fund the nursing incentive scholarship fund created in KRS 314.025.

(c) In any lawsuit brought on the basis of alleged violations of Sections 1 to 5 of this Act, the fact that the employee worked in excess of forty (40) hours per week and any evidence thereto is a prima facie violation of Sections 1 to 5 of this Act. To rebut this presumption, the employer must prove that a declared emergency occurred and overtime was required only as a last resort at the time the employee was forced or compelled to work.

Section 7. KRS 314.027 is amended to read as follows:

(1) Funding for the Kentucky nursing incentive scholarship fund shall be supplied partly by funds received from penalties and fines, to include, but not be limited to, certificate of need penalties assessed on primary care centers, hospitals, nursing facilities, and skilled and intermediate care nursing homes under the provisions of KRS 216.560 and 216B.131(2)*, and penalties assessed under Section 6 of this Act*.

(2) Additional funding shall be provided by an assessment of five dollars ($5) to be added to each nurse licensure renewal application fee payable to the board, proceeds of which shall be annually allocated to the Kentucky nursing incentive scholarship fund.

(3) The board may cancel any contract between it and any applicant or recipient upon failure by the applicant or recipient to meet requirements of KRS 314.025 to 314.027 or board administrative regulations. Failure to complete the terms of the contract shall subject the applicant to legal action for the recovery of all assistance provided, together with attorney fees and interest at a compound rate of eight percent (8%) from the date of disbursement from the Kentucky nursing incentive scholarship fund.

The Committee Substitute to **HB 732** is as follows:

HB 732, AN ACT relating to wages and hours.

WHEREAS, the Kentucky General Assembly has a substantial interest in assuring that delivery of health care services to patients in health facilities is adequate and safe; and

WHEREAS, the health, efficiency, and general well-being of nonsupervisory health facility employees, and the health and general well-being of the persons to whom these employees provide services are of paramount importance; and

WHEREAS, the establishment of a maximum hourly work day and work week for nonsupervisory health facility employees should be considered to ensure that health facilities throughout the Commonwealth will operate in a manner that safeguards public safety, guarantees the delivery of quality health care services, and facilitates the retention and recruitment of health facility employees;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Interim Joint Committee on Labor and Industry is directed to review studies and reports and to take testimony to assess if nonsupervisory health facility employees are routinely and regularly required to work extended work shifts and forego taking time off, and the impact of such practices on patient care, during the 2002 and 2003 interims.

Section 2. The Interim Joint Committee on Labor and Industry shall make a final report to the Legislative Research Commission no later than October 1, 2003.

Section 3. Provisions of this Act to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternately assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

HB 782, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.140 is amended to read as follows:

The average weekly wage of the injured employee at the time of the injury or last injurious exposure shall be determined as follows:

(1) If at the time of the injury which resulted in death or disability or the last date of injurious exposure preceding death or

disability from an occupational disease:

(a) The wages were fixed by the week, the amount so fixed shall be the average weekly wage;

(b) The wages were fixed by the month, the average weekly wage shall be the monthly wage so fixed multiplied by twelve (12) and divided by fifty-two (52);

(c) The wages were fixed by the year, the average weekly wage shall be the yearly wage so fixed divided by fifty-two (52);

(d) The wages were fixed by the day, hour, or by the output of the employee, the average weekly wage shall be the wage most favorable to the employee computed by dividing by thirteen (13) the wages (not including overtime or premium pay) of said employee earned in the employ of the employer in the first, second, third, or fourth period of thirteen (13) consecutive calendar weeks in the fifty-two (52) weeks immediately preceding the injury***, except that overtime shall be included for an employee whose work week consists of an average of fifty-six (56) hours including at least one (1) twenty-four (24) hour shift in the work week***.

(e) The employee had been in the employ of the employer less than thirteen (13) calendar weeks immediately preceding the injury, his average weekly wage shall be computed under paragraph (d), taking the wages (not including overtime or premium pay) for that purpose to be the amount he would have earned had he been so employed by the employer the full thirteen (13) calendar weeks immediately preceding the injury and had worked, when work was available to other employees in a similar occupation.

(f) The hourly wage has not been fixed or cannot be ascertained, the wage for the purpose of calculating compensation shall be taken to be the usual wage for similar services where the services are rendered by paid employees.

(2) In occupations which are exclusively seasonal and therefore cannot be carried on throughout the year, the average weekly wage shall be taken to be one-fiftieth (1/50) of the total wages which the employee has earned from all occupations during the twelve (12) calendar months immediately preceding the injury.

(3) In the case of volunteer firemen, police, and emergency management agency members or trainees, the income benefits shall be based on the average weekly wage in their regular employment.

(4) If the employee was a minor, apprentice, or trainee when injured, and it is established that under normal conditions his wages should be expected to increase during the period of disability, that fact may be considered in computing his average weekly wage.

(5) When the employee is working under concurrent contracts with two (2) or more employers and the defendant employer has knowledge of the employment prior to the injury, his wages from all the employers shall be considered as if earned from the employer liable for compensation.

(6) The term "wages" as used in this section and KRS 342.143 means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, and fuel or similar advantage received from the employer, and gratuities received in the course of employment from others than the employer to the extent the gratuities are reported for income tax purposes.

(7) The commissioner shall, from time to time, based upon the best available information, determine by administrative regulation industries which ordinarily do not have a full working day for five (5) days in every week. In those industries, compensation shall be computed at the average weekly wage earned by the employee at the time of injury reckoning wages as earned while working full time. "At full time" as used in this subsection means a full working day for five (5) working days in every week regardless of whether the injured employee actually worked all or part of the time.

HB 832, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.020 is amended to read as follows:

(1) ***(a)*** In addition to all other compensation provided in this chapter, the employer shall pay for the cure and relief from the effects of an injury or occupational disease the medical, surgical, and hospital treatment, including nursing, medical, and surgical supplies and appliances, as may reasonably be required at the time of the injury and thereafter during disability, or as may be required for the cure and treatment of an occupational disease. The employer's obligation to pay the benefits specified in this section shall continue for so long as the employee is disabled regardless of the duration of the employee's income benefits. In the absence of designation of a managed health care system by the employer, the employee may select medical providers to treat his injury or occupational disease. Even if the employer has designated a managed health care system, the injured employee may elect to continue treating with a physician who provided emergency medical care or treatment to the employee.

(b) The employer, insurer, or payment obligor acting on behalf of the employer, shall make all payments for services rendered to an employee directly to the provider of the services within thirty (30) days of receipt of a statement for services. The commissioner shall promulgate administrative regulations establishing conditions under which the thirty (30) day period for payment may be tolled.

(c) The provider of medical services shall submit the statement for services within forty-five (45) days of the day treatment is initiated and every forty-five (45) days thereafter, if appropriate, as long as medical services are rendered.

(d) If medical services or benefits, or overdue payments for medical services are recovered in a proceeding brought under this chapter by an attorney for an employee, or paid by the employer after receipt of notice of the attorney's representation, a reasonable attorney's fee may be awarded. The award of attorney's fees shall be paid by the employer if the administrative law judge determines that the denial or delay was without reasonable foundation.

(e) Except as provided in subsection (4) of this section, in no event shall a medical fee exceed the limitations of an adopted medical fee schedule or other limitations contained in KRS 342.035, whichever is lower. The commissioner may promulgate administrative regulations establishing the form and content of a statement for services and procedures by which disputes relative to the necessity, effectiveness, frequency, and cost of services may be resolved.

(2) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, medical services and treatment provided under this chapter shall not be subject to copayments or deductibles.

(3) Employers may provide medical services through a managed health care system. The managed health care system shall file with the Department of Workers' Claims a plan for the rendition of health care services for work-related injuries and occupational diseases to be approved by the commissioner pursuant to administrative regulations promulgated by the commissioner.

(4) All managed health care systems rendering medical services under this chapter shall include the following features in plans for workers' compensation medical care:

(a) Copayments or deductibles shall not be required for medical services rendered in connection with a work-related injury or occupational disease;

(b) The employee shall be allowed choice of provider within the plan;

(c) The managed health care system shall provide an informal procedure for the expeditious resolution of disputes concerning rendition of medical services;

(d) The employee shall be allowed to obtain a second opinion, at the employer's expense, from an outside physician if a managed health care system physician recommends surgery;

(e) The employee may obtain medical services from providers outside the managed health care system, at the employer's expense, when treatment is unavailable through the managed health care system;

(f) The managed health care system shall establish procedures for utilization review of medical services to assure that a course of treatment is reasonably necessary; diagnostic procedures are not unnecessarily duplicated; the frequency, scope, and duration of treatment is appropriate; pharmaceuticals are not unnecessarily prescribed; and that ongoing and proposed treatment is not experimental, cost ineffective, or harmful to the employee; and

(g) Statements for services shall be audited regularly to assure that charges are not duplicated and do not exceed those authorized in the applicable fee schedules.

(h) A schedule of fees for all medical services to be provided under this chapter which shall not be subject to the limitations on medical fees contained in this chapter.

(i) Restrictions on provider selection imposed by a managed health care system authorized by this chapter shall not apply to emergency medical care.

(5) Except for emergency medical care, medical services rendered pursuant to this chapter shall be under the supervision of a single treating physician or physicians' group having the authority to make referrals, as reasonably necessary, to appropriate facilities and specialists. The employee may change his designated physician one (1) time and thereafter shall show reasonable cause in order to change physicians.

(6) When a compensable injury or occupational disease results in the amputation of an arm, leg, or foot, or the loss of hearing, or the enucleation of an eye or loss of teeth, the employer shall pay for, in addition to the other medical, surgical, and hospital treatment enumerated in subsection (1) and this subsection, a modern artificial member and, where required, proper braces as may reasonably be required at the time of the injury and thereafter during disability.

(7) Upon motion of the employer, with sufficient notice to the employee for a response to be filed, if it is shown to the satisfaction of the administrative law judge by affidavits or testimony that, because of the physician selected by the employee to treat the injury or disease, or because of the hospital selected by the employee in which treatment is being rendered, that the employee is not receiving proper medical treatment and the recovery is being substantially affected or delayed; or that the funds for medical expenses are being spent without reasonable benefit to the employee; or that because of the physician selected by the employee or because of the type of medical treatment being received by the employee that the employer will substantially be prejudiced in any compensation proceedings resulting from the employee's injury or disease; then the administrative law judge may allow the employer to select a physician to treat the employee and the hospital or hospitals in which the employee is treated for the injury or disease. No action shall be brought against any

employer subject to this chapter by any person to recover damages for malpractice or improper treatment received by any employee from any physician, hospital, or attendant thereof.

(8) An employee who reports an injury alleged to be work-related or files an application for adjustment of a claim shall execute a waiver and consent of any physician-patient, psychiatrist-patient, or chiropractor-patient privilege with respect to any condition or complaint reasonably related to the condition for which the employee claims compensation. Notwithstanding any other provision in the Kentucky Revised Statutes, any physician, psychiatrist, chiropractor, podiatrist, hospital, or health care provider shall, within a reasonable time after written request by the employee, employer, workers' compensation insurer, special fund, uninsured employers' fund, or the administrative law judge, provide the requesting party with any information or written material reasonably related to any injury or disease for which the employee claims compensation.

(9) When a provider of medical services or treatment, required by this chapter, makes referrals for medical services or treatment by this chapter, to a provider or entity in which the provider making the referral has an investment interest, the referring provider shall disclose that investment interest to the employee, the commissioner, and the employer's insurer or the party responsible for paying for the medical services or treatment, within thirty (30) days from the date the referral was made.

Section 2. KRS 342.125 is amended to read as follows:

(1) Upon motion by any party or upon an administrative law judge's own motion, an administrative law judge may reopen and review any award or order on any of the following grounds:

(a) Fraud;

(b) Newly-discovered evidence which could not have been discovered with the exercise of due diligence;

(c) Mistake; and

(d) Change of disability as shown by objective medical evidence of worsening or improvement of impairment due to a condition caused by the injury since the date of the award or order.

(2) No claim which has been previously dismissed or denied on the merits shall be reopened except upon the grounds set forth in this section.

(3) Except for reopening solely for determination of the compensability of medical expenses, fraud, or conforming the award as set forth in KRS 342.730(1)(c)2., or for reducing a permanent total disability award when an employee returns to work, or seeking temporary total disability benefits during the period of an award, no claim shall be reopened more than four (4) years following the ***termination*** date of the original award or order granting or denying benefits, and no party may file a motion to reopen within one (1) year of any previous motion to reopen by the same party.

(4) Reopening and review under this section shall be had upon notice to the parties and in the same manner as provided for an initial proceeding under this chapter. Upon reopening, the administrative law judge may end, diminish, or increase compensation previously awarded, within the maximum and minimum provided in this chapter, or change or revoke a previous order. The administrative law judge shall immediately send all parties a copy of the subsequent order or award. Reopening shall not affect the previous order or award as to any sums already paid thereunder, and any change in the amount of compensation shall be ordered only from the date of filing the motion to reopen. No employer shall suspend benefits during pendency of any reopening procedures except upon order of the administrative law judge.

(5) (a) Upon the application of the affected employee, and a showing of progression of his previously-diagnosed occupational pneumoconiosis resulting from exposure to coal dust and development of respiratory impairment due to that pneumoconiosis and two (2) additional years of employment in the Commonwealth wherein the employee was continuously exposed to the hazards of the disease, the administrative law judge may review an award or order for benefits attributable to coal-related pneumoconiosis under KRS 342.732. An application for review under this subsection shall be made within one (1) year of the date the employee knew or reasonably should have known that a progression of his disease and development or progression of respiratory impairment have occurred. Review under this subsection shall include a review of all evidence admitted in all prior proceedings.

(b) Benefits awarded as a result of a review under this subsection shall be reduced by the amount of retraining incentive benefits or income benefits previously awarded under KRS 342.732. The amount to be deducted shall be subtracted from the total amount awarded, and the remaining amount shall be divided by the number of weeks, for which the award was made, to arrive at the weekly benefit amount which shall be apportioned in accordance with the provisions of KRS 342.316.

(6) In a reopening or review proceeding where there has been additional permanent partial disability awarded, the increase shall not extend the original period, unless the combined prior disability and increased disability exceeds fifty percent (50%), but less than one hundred percent (100%), in which event the awarded period shall not exceed five hundred twenty (520) weeks, from commencement date of the original disability previously awarded. The law in effect on the date of the original injury controls the rights of the parties.

(7) Where an agreement has become an award by approval of the administrative law judge, and a reopening and review of that award is initiated, no statement contained in the agreement, whether as to jurisdiction, liability of the employer, nature and extent of disability, or as to any other matter, shall be considered by the administrative law judge as an admission against

the interests of any party. The parties may raise any issue upon reopening and review of this type of award which could have been considered upon an original application for benefits.

(8) The time limitation prescribed in this section shall apply to all claims irrespective of when they were incurred, or when the award was entered, or the settlement approved. However, claims decided prior to December 12, 1996, may be reopened within four (4) years of the award or order or within four (4) years of December 12, 1996, whichever is later, provided that the exceptions to reopening established in subsections (1) and (3) of this section shall apply to these claims as well.

Section 3. KRS 342.185 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, no proceeding under this chapter for compensation for an injury or death shall be maintained unless a notice of the accident shall have been given to the employer as soon as practicable after the happening thereof and unless an application for adjustment of claim for compensation with respect to the injury shall have been made with the department within two (2) years after the date of the accident, or in case of death, within two (2) years after the death, whether or not a claim has been made by the employee himself for compensation ***except for injuries caused by cumulative trauma, in which case an application for adjustment of claim for compensation shall be filed within two (2) years after the last injurious exposure to the cumulative trauma***. The notice and the claim may be given or made by any person claiming to be entitled to compensation or by someone in his behalf. If payments of income benefits have been made, the filing of an application for adjustment of claim with the department within the period shall not be required, but shall become requisite within two (2) years following the suspension of payments or within two (2) years of the date of the accident, whichever is later.

(2) The right to compensation under this chapter resulting from work-related exposure to the human immunodeficiency virus shall be barred unless notice of the injurious exposure is given in accordance with subsection (1) of this section and unless an application for adjustment of claim for compensation shall have been made with the commissioner within five (5) years after the injurious exposure to the virus.

Section 4. KRS 342.710 is amended to read as follows:

(1) One of the primary purposes of this chapter shall be restoration of the injured employee to gainful employment, and preference shall be given to returning the employee to employment with the same employer or to the same or similar employment.

(2) The commissioner shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public.

(3) An employee who has suffered an injury covered by this chapter shall be entitled to prompt medical rehabilitation services for whatever period of time is necessary to accomplish physical rehabilitation goals which are feasible, practical, and justifiable. When as a result of the injury he is unable to perform work for which he has previous training or experience, he shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him to suitable employment. In all such instances, the administrative law judge shall inquire whether such services have been voluntarily offered and accepted. The administrative law judge on his own motion, or upon application of any party or carrier, after affording the parties an opportunity to be heard, may refer the employee to a qualified physician or facility for evaluation of the practicability of, need for, and kind of service, treatment, or training necessary and appropriate to render him fit for a remunerative occupation. Upon receipt of such report, the administrative law judge may order that the services and treatment recommended in the report, or such other rehabilitation treatment or service likely to return the employee to suitable, gainful employment, be provided at the expense of the employer or his insurance carrier. Vocational rehabilitation training, treatment, or service shall not extend for a period of more than fifty-two (52) weeks, except in unusual cases when by special order of the administrative law judge, after hearing and upon a finding, determined by sound medical evidence which indicates such further rehabilitation is feasible, practical, and justifiable, the period may be extended for additional periods.

(4) Where rehabilitation requires residence at or near the facility or institution, away from the employee's customary residence, reasonable cost of his board, lodging, or travel shall be paid for by the employer or his insurance carrier.

(5) Refusal to accept rehabilitation pursuant to an order of an administrative law judge shall result in a fifty percent (50%) loss of compensation for each week of the period of refusal.

(6) The commissioner shall cooperate on a reciprocal basis with the Department of Vocational Rehabilitation and the Department for Employment Services of the Kentucky Cabinet for Workforce Development. In the event medical treatment, medical rehabilitation services, or vocational rehabilitation services are purchased for an injured employee by the Department of Vocational Rehabilitation or Department for Employment Services following the refusal by the employer or his insurance carrier to provide such services, the administrative law judge, after affording the parties an opportunity to be heard, may order reimbursement of the cost of such treatment or services by the employer or his insurance carrier as apportioned in the award. This section shall not be interpreted to require mandatory evaluation of employees based on length of disability. Any administrative regulations promulgated pursuant to this section that require mandatory referral to a qualified rehabilitation counselor shall expire on April 4, 1994.

(7) An employee who is enrolled and participating in a program of rehabilitation training pursuant to this section may elect to receive an acceleration of benefits as awarded under KRS 342.730. Such acceleration shall be available to the employee during the period of retraining, but in no event shall be paid in a weekly amount greater than sixty-six and two-thirds

percent (66-2/3%) of the average weekly wage upon which the award is based, not to exceed one hundred percent (100%) of the state average weekly wage. Upon successful completion of the rehabilitation program, the total of all accelerated benefits paid shall be deducted on a dollar-for-dollar basis, without discount, from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, if any, shall then be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. If a program of rehabilitation training is terminated by the employee prior to completion, all sums paid on an accelerated basis shall be discounted at the rate set forth in KRS 342.265 and then deducted on a dollar-for-dollar basis from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, after the discount, shall be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. In no event shall this subsection be construed as requiring payment of benefits in excess of the total of those benefits which would otherwise be payable under the award.

(8) If rehabilitation services or benefits, or overdue payments for such benefits or services are recovered in a proceeding brought under this chapter by an attorney for an employee, or paid by the employer after receipt of notice of the attorney's representation, a reasonable attorney's fee may be awarded. The award of attorney's fees shall be paid by the employer if the administrative law judge determines that the denial or delay was without reasonable foundation.

Section 5. KRS 342.730 is amended to read as follows:

(1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows:

(a) For temporary or permanent total disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during that disability. Nonwork-related impairment and conditions compensable under KRS 342.732 and hearing loss covered in KRS 342.7305 shall not be considered in determining whether the employee is totally disabled for purposes of this subsection.

(b) For permanent partial disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by the permanent impairment rating caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, times the factor set forth in the table that follows:

AMA Impairment	Factor
0 to 5%	0.65
6 to 10%	0.85
11 to 15%	1.00
16 to 20%	1.00
21 to 25%	1.15
26 to 30%	1.35
31 to 35%	1.50
36% and above	1.70

Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

(c) 1. If, due to an injury, an employee does not retain the physical capacity to return to the type of work that the employee performed at the time of injury, the benefit for permanent partial disability shall be multiplied by three (3) times the amount otherwise determined under paragraph (b) of this subsection, but this provision shall not be construed so as to extend the duration of payments; or

2. If an employee returns to work at a weekly wage equal to or greater than the average weekly wage at the time of injury, the weekly benefit for permanent partial disability shall be determined under paragraph (b) of this subsection for each week during which that employment is sustained. During any period of cessation of that employment, temporary or permanent, for any reason, with or without cause, payment of weekly benefits for permanent partial disability during the period of cessation shall be two (2) times the amount otherwise payable under paragraph (b) of this subsection. This provision shall not be construed so as to extend the duration of payments.

3. Recognizing that limited education and advancing age impact an employee's post-injury earning capacity, an education and age factor, when applicable, shall be added to the income benefit multiplier set forth in paragraph (c)1. of this subsection. If at the time of injury, the employee had less than eight (8) years of formal education, the multiplier shall be increased by four-tenths (0.4); if the employee had less than twelve

(12) years of education or a high school General Educational Development diploma, the multiplier shall be increased by two-tenths (0.2); if the employee was age sixty (60) or older, the multiplier shall be increased by six-tenths (0.6); if the employee was age fifty-five (55) or older, the multiplier shall be increased by four-tenths (0.4); or if the employee was age fifty (50) or older, the multiplier shall be increased by two-tenths (0.2).

4. Notwithstanding the provisions of KRS 342.125, a claim may be reopened at any time during the period of permanent partial disability in order to conform the award payments with the requirements of subparagraph 2. of this paragraph.

(d) For permanent partial disability, if an employee has a permanent disability rating of ***thirty-five***[~~fifty~~] percent ***(35%)***[~~(50%)~~] or less as a result of a work-related injury, the compensable permanent partial disability period shall be four hundred twenty-five (425) weeks, and if the permanent disability rating is greater than ***thirty-five***[~~fifty~~] percent ***(35%)***[~~(50%)~~], the compensable permanent partial disability period shall be five hundred twenty (520) weeks from the date the impairment or disability exceeding ***thirty-five***[~~fifty~~] percent ***(35%)***[~~(50%)~~] arises. Benefits payable for permanent partial disability shall not exceed ninety-nine percent (99%) of sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined under KRS 342.740 and shall not exceed seventy-five percent (75%) of the state average weekly wage, except for benefits payable pursuant to paragraph (c)1. of this subsection, which shall not exceed one hundred percent (100%) of the state average weekly wage, nor shall benefits for permanent partial disability be payable for a period exceeding five hundred twenty (520) weeks, notwithstanding that multiplication of impairment times the factor set forth in paragraph (b) of this subsection would yield a greater percentage of disability.

(e) For permanent partial disability, impairment for nonwork-related disabilities, conditions previously compensated under this chapter, conditions covered by KRS 342.732, and hearing loss covered in KRS 342.7305 shall not be considered in determining the extent of disability or duration of benefits under this chapter.

(2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.

(3) Subject to the limitations contained in subsection (4) of this section, when an employee, who has sustained disability compensable under this chapter, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, portions of the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after the death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, benefits at fifty percent (50%) of the rate specified in the award; or

(b) If there are both a widow or widower and such a child or children, to the widow or widower, forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of those benefits if such a child or children are not living with the widow or widower; and, in addition thereto, fifteen percent (15%) of the benefits specified in the award to each child. Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike; or

(c) If there is no widow or widower but such a child or children, then to the child or children, fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of those benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750, or to both, in proportions that the commissioner provides by administrative regulation.

(e) To the widow or widower upon remarriage, up to two (2) years, benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if the proportioned benefits remain unpaid, to be paid in a lump sum.

(4) All income benefits payable pursuant to this chapter shall terminate as of the date upon which the employee ***reaches age seventy (70)***[~~qualifies for normal old-age Social Security retirement benefits under the United States Social Security Act, 42 U.S.C. secs. 301 to 1397f~~], or ***five (5)***[~~two (2)~~] years after the employee's injury or last exposure, whichever last occurs.[~~ In like manner all income benefits payable pursuant to this chapter to spouses and dependents shall terminate when such spouses and dependents qualify for benefits under the United States Social Security Act by reason of the fact that the worker upon whose earnings entitlement is based would have qualified for normal old-age Social Security retirement benefits.~~]

(5) All income benefits pursuant to this chapter otherwise payable for temporary total and permanent total disability shall be

offset by unemployment insurance benefits paid for unemployment during the period of temporary total or permanent total disability.

(6) All income benefits otherwise payable pursuant to this chapter shall be offset by payments made under an exclusively employer-funded disability or sickness and accident plan which extends income benefits for the same disability covered by this chapter, except where the employer-funded plan contains an internal offset provision for workers' compensation benefits which is inconsistent with this provision.

(7) If an employee receiving a permanent total disability award returns to work, that employee shall notify the employer, payment obligor, insurance carrier, or special fund as applicable.

The Committee Substitute to **HB 832** is as follows:

HB 832, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.730 is amended to read as follows:

(1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows:

(a) For temporary or permanent total disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during that disability. Nonwork-related impairment and conditions compensable under KRS 342.732 and hearing loss covered in KRS 342.7305 shall not be considered in determining whether the employee is totally disabled for purposes of this subsection.

(b) For permanent partial disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by the permanent impairment rating caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, times the factor set forth in the table that follows:

AMA Impairment	Factor
0 to 5%	0.65
6 to 10%	0.85
11 to 15%	1.00
16 to 20%	1.00
21 to 25%	1.15
26 to 30%	1.35
31 to 35%	1.50
36% and above	1.70

Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

(c) 1. If, due to an injury, an employee does not retain the physical capacity to return to the type of work that the employee performed at the time of injury, the benefit for permanent partial disability shall be multiplied by three (3) times the amount otherwise determined under paragraph (b) of this subsection, but this provision shall not be construed so as to extend the duration of payments; or

2. If an employee returns to work at a weekly wage equal to or greater than the average weekly wage at the time of injury, the weekly benefit for permanent partial disability shall be determined under paragraph (b) of this subsection for each week during which that employment is sustained. During any period of cessation of that employment, temporary or permanent, for any reason, with or without cause, payment of weekly benefits for permanent partial disability during the period of cessation shall be two (2) times the amount otherwise payable under paragraph (b) of this subsection. This provision shall not be construed so as to extend the duration of payments.

3. Recognizing that limited education and advancing age impact an employee's post-injury earning capacity, an education and age factor, when applicable, shall be added to the income benefit multiplier set forth in paragraph (c)1. of this subsection. If at the time of injury, the employee had less than eight (8) years of formal education, the multiplier shall be increased by four-tenths (0.4); if the employee had less than twelve (12) years of education or a high school General Educational Development diploma, the multiplier shall be

increased by two-tenths (0.2); if the employee was age sixty (60) or older, the multiplier shall be increased by six-tenths (0.6); if the employee was age fifty-five (55) or older, the multiplier shall be increased by four-tenths (0.4); or if the employee was age fifty (50) or older, the multiplier shall be increased by two-tenths (0.2).

4. Notwithstanding the provisions of KRS 342.125, a claim may be reopened at any time during the period of permanent partial disability in order to conform the award payments with the requirements of subparagraph 2. of this paragraph.

(d) For permanent partial disability, if an employee has a permanent disability rating of ***thirty-five***[~~fifty~~] percent ***(35%)***[~~(50%)~~] or less as a result of a work-related injury, the compensable permanent partial disability period shall be four hundred twenty-five (425) weeks, and if the permanent disability rating is greater than ***thirty-five***[~~fifty~~] percent ***(35%)***[~~(50%)~~], the compensable permanent partial disability period shall be five hundred twenty (520) weeks from the date the impairment or disability exceeding ***thirty-five***[~~fifty~~] percent ***(35%)***[~~(50%)~~] arises. Benefits payable for permanent partial disability shall not exceed ninety-nine percent (99%) of sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined under KRS 342.740 and shall not exceed seventy-five percent (75%) of the state average weekly wage, except for benefits payable pursuant to paragraph (c)1. of this subsection, which shall not exceed one hundred percent (100%) of the state average weekly wage, nor shall benefits for permanent partial disability be payable for a period exceeding five hundred twenty (520) weeks, notwithstanding that multiplication of impairment times the factor set forth in paragraph (b) of this subsection would yield a greater percentage of disability.

(e) For permanent partial disability, impairment for nonwork-related disabilities, conditions previously compensated under this chapter, conditions covered by KRS 342.732, and hearing loss covered in KRS 342.7305 shall not be considered in determining the extent of disability or duration of benefits under this chapter.

(2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.

(3) Subject to the limitations contained in subsection (4) of this section, when an employee, who has sustained disability compensable under this chapter, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, portions of the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after the death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, benefits at fifty percent (50%) of the rate specified in the award; or

(b) If there are both a widow or widower and such a child or children, to the widow or widower, forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of those benefits if such a child or children are not living with the widow or widower; and, in addition thereto, fifteen percent (15%) of the benefits specified in the award to each child. Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike; or

(c) If there is no widow or widower but such a child or children, then to the child or children, fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of those benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750, or to both, in proportions that the commissioner provides by administrative regulation.

(e) To the widow or widower upon remarriage, up to two (2) years, benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if the proportioned benefits remain unpaid, to be paid in a lump sum.

(4) All income benefits payable pursuant to this chapter shall terminate as of the date upon which the employee qualifies for normal old-age Social Security retirement benefits under the United States Social Security Act, 42 U.S.C. secs. 301 to 1397f, or two (2) years after the employee's injury or last exposure, whichever last occurs. In like manner all income benefits payable pursuant to this chapter to spouses and dependents shall terminate when such spouses and dependents qualify for benefits under the United States Social Security Act by reason of the fact that the worker upon whose earnings entitlement is based would have qualified for normal old-age Social Security retirement benefits.

(5) All income benefits pursuant to this chapter otherwise payable for temporary total and permanent total disability shall be offset by unemployment insurance benefits paid for unemployment during the period of temporary total or permanent total disability.

(6) All income benefits otherwise payable pursuant to this chapter shall be offset by payments made under an exclusively employer-funded disability or sickness and accident plan which extends income benefits for the same disability covered by this chapter, except where the employer-funded plan contains an internal offset provision for workers' compensation benefits which is inconsistent with this provision.

(7) If an employee receiving a permanent total disability award returns to work, that employee shall notify the employer, payment obligor, insurance carrier, or special fund as applicable.

HB 851, AN ACT relating to boiler and pressure vessel safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 236.060 is amended to read as follows:

(1) KRS 236.005 to 236.150 shall not apply to boilers or pressure vessels or related piping under federal control.

(2) KRS 236.005 to 236.150 shall not apply to the following boilers or related piping:

(a) Boilers or pressure vessels located on farms and used solely for agricultural purposes;

(b) Boilers or pressure vessels located at any oil refineries;

(c) Boilers or pressure vessels located at any utility operating under a certificate issued pursuant to KRS 278.020, if the boilers or pressure vessels are inspected by a special boiler inspector under the provisions of KRS 236.110, except that the inspection interval provided for in KRS 236.110 shall be extended to eighteen (18) months;

(d)[~~Steam or vapor boilers used for heating purposes carrying a pressure of not more than fifteen (15) pounds per square inch gauge, and which are located in private residences or in apartment houses of less than six (6) families;~~

~~(e) Hot water heating boilers carrying a pressure of not more than thirty (30) pounds per square inch gauge which are located in private residences or in apartment houses of less than six (6) families or hot water supply boilers which are located in private residences or in apartment houses of less than six (6) families;~~

~~(f)~~] Any unfired pressure vessels used as containers for liquefied petroleum gases and subject to the jurisdiction of the Department of Housing, Buildings and Construction under KRS Chapter 234;

(e)[~~(g)~~] Pressure vessels used for transportation of compressed gases if constructed and operated in compliance with specifications and regulations of another state or federal authority;

(f)[~~(h)~~] Pressure vessels containing air located on vehicles operating under the regulations of another state or federal authority;

(g)[~~(i)~~] Pressure vessels operating at a maximum pressure of fifteen (15) PSI or less;

(h)[~~(j)~~] Single wall pressure vessels having an inside diameter of six (6) inches;

(i)[~~(k)~~] Pressure vessels with a nominal water containing capacity of one hundred twenty (120) gallons or less, to be used for domestic supply purposes, for containing water under pressure, including those containing air, the compression of which serves only as a cushion;

(j)[~~(l)~~] Pressure vessels containing water heated by steam or other indirect means when none of the following are exceeded:

1. Heat input of two hundred thousand (200,000) BTU/Hr.;
2. Water temperature of two hundred ten (210) degrees Fahrenheit;
3. Water storage capacity of one hundred twenty (120) gallons;

(k)[~~(m)~~] Coil type hot water boilers without a steam space and where no steam is generated within the confines of the unit but where water flashes into steam when released to atmospheric pressure by the operation of a manually operated nozzle, unless one (1) of the following is exceeded:

1. Three quarter (3/4) inch inside diameter tubing or pipe size with no drum or header attached;
2. Six (6) gallon water containing capacity;
3. Three hundred fifty (350) degrees Fahrenheit water temperature;

(l)[~~(n)~~] Water heaters which are directly fired with oil, gas, or electricity, when none of the following limitations are exceeded:

1. Heat input of two hundred thousand (200,000) BTU/Hr.;
2. A water temperature of two hundred ten (210) degrees Fahrenheit;
3. A water containing capacity of one hundred twenty (120) gallons;

(m)[~~(o)~~] Pressure vessels which may be classified as:

1. Pressure containers which are integral parts of components of rotating or reciprocating mechanical devices such as pumps, compressors, turbines, generators, engines, and hydraulic or pneumatic cylinders where the primary design considerations or stresses are derived from the functional requirements of the device; or

2. Structures whose primary function is the transport of fluids from one location to another within a system of which it is an integral part, that is, piping system.

(3) The fees required by KRS 236.120(1) and 236.130 shall not apply to standard and miniature antique and hobby boiler-operated tractors and equipment used solely for exhibition, if the boiler uses a fifty (50) pounds per square inch or less gauge.

Section 2. KRS 236.210 is amended to read as follows:

(1) No person~~[, except contractor installers of boilers operating at more than five hundred (500) pounds per square inch gauge or at more than four hundred sixty-seven (467) degrees Fahrenheit,]~~ shall engage in the business of installing, erecting, or repairing boilers unless he first obtains a license from the commissioner on recommendation of the board.

(2) Each person, firm or corporation must pass an examination prepared by the board and administered by the department.

(3) A license shall be issued by the commissioner or the chief boiler inspector upon recommendation of the board and payment of a reasonable fee not to exceed the cost of examination and other expenses involved as established by the commissioner upon advice of the board pursuant to KRS Chapter 13A.

(4) The license shall be renewable annually, not later than the first of the month following the expiration date, upon payment of a reasonable fee not to exceed the costs involved in such renewal as established by the commissioner upon advice of the board pursuant to KRS Chapter 13A.

(5) All individuals in the employ of a licensee shall not be required to be licensed.

The Committee on Health and Welfare reported **HB 744,** with Committee Substitute attached thereto, **HB 763,** with Committee Substitute attached thereto, **HJR 191, SB 56,** and **SB 153,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 744, AN ACT relating to children's psychiatric residential treatment facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.450 is amended to read as follows:

As used in this section and KRS 216B.455:

(1) "Cabinet" means the Cabinet for Health Services;

(2) "Community-based" means a facility that is located in an existing residential neighborhood or community;

(3) "Home-like" means a residence with living space designed to accommodate the daily living needs and tasks of a family unit, with opportunity for adult-child communication, shared tasks, adult-child learning, congregate meals, and family-type routines appropriate to the ages and levels of functioning of the residents; and

(4) "Psychiatric residential treatment facility" means a licensed, community-based, and home-like facility with a maximum of ***nine (9)***~~[eight (8)]~~ beds which provides inpatient psychiatric residential treatment to residents who have an emotional disability or severe emotional disability as defined in KRS 200.503, age six (6) years to twenty-one (21) years with an age range of no greater than five (5) years in a living unit.

Section 2. KRS 216B.455 is amended to read as follows:

(1) A certificate of need shall be required for all psychiatric residential treatment facilities. The application for a certificate of need shall include formal written agreements of cooperation that identify the nature and extent of the proposed working relationship between the proposed psychiatric residential treatment facility and each of the following agencies, organizations, or facilities located in the service area of the proposed facility:

(a) Regional interagency council for children with emotional disability or severe emotional disability as defined in KRS 200.509;

(b) Department for Community Based Services;

(c) Local school districts;

(d) Psychiatric hospitals; and

(e) Any other agency, organization, or facility deemed appropriate by the cabinet.

(2) All psychiatric residential treatment facilities shall comply with the licensure requirements as set forth in KRS 216B.105.

(3) All psychiatric residential treatment facilities shall be certified by the Joint Commission on Accreditation of Healthcare Organizations, or the Council on Accreditation, or any other accrediting body with comparable standards that is recognized by the state.

(4) A psychiatric residential treatment facility shall not be located in or on the grounds of a psychiatric hospital. ***Multiple freestanding facilities may be located on the same campus that is not on the grounds of a psychiatric hospital.***

(5) The total number of psychiatric residential treatment facility beds shall not exceed ***three hundred and twenty-four (324)***

beds statewide, and shall be distributed among four geographic regions of the state as follows:

- ***(a) Region one shall include the Purchase, Pennyrile, and Green River area development districts not to exceed sixty-eight (68) beds;***
- ***(b) Region two shall include the Barren River, Lincoln Trail and KIPDA area development districts not to exceed one hundred and eight (108) beds;***
- ***(c) Region three shall include the Northern Kentucky, Bluegrass, and Lake Cumberland area development districts not to exceed one hundred and eight (108) beds; and***
- ***(d) Region four shall include the Buffalo Trace, Gateway, FIVCO, Big Sandy, Kentucky River, and Cumberland Valley area development districts not to exceed forty-five (45) beds***[~~sixteen (16) beds in any area development district with less than 275,000 population; thirty two (32) beds in any area development district with 275,000 to 550,000 population; and forty eight (48) beds in any area development district with over 550,000 population~~].

(6) (a) The Cabinet for Health Services and the Cabinet for Families and Children shall investigate the need for children's psychiatric residential treatment services for specialized populations including, but not limited to, sexual offenders, children with physical and developmental disabilities, and children with dual diagnoses.

(b) The cabinets shall report to the Governor and the Legislative Research Commission by August 1, 2003 on a plan to enable children with specialized needs to be served in community-based psychiatric residential treatment facilities in Kentucky. The plan shall include methods to:

- ***1. Identify the specialized populations;***
- ***2. Develop services targeted for the specialized populations; and***
- ***3. Establish a Medicaid reimbursement rate for specialized facilities in Kentucky.***

Section 3. KRS 216B.459 is amended to read as follows:

The rate of reimbursement for Medicaid eligibles residing in ***nine (9)***[~~eight (8)~~] bed psychiatric residential treatment facilities shall not exceed the rate of reimbursement for Medicaid eligibles residing in ***eighteen (18)***[~~sixteen (16)~~] bed psychiatric residential treatment facilities.

The Committee Substitute to **HB 744** is as follows:

HB 744, AN ACT relating to children's psychiatric residential treatment facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.450 is amended to read as follows:

As used in this section and KRS 216B.455:

(1) "Cabinet" means the Cabinet for Health Services;

(2) "Community-based" means a facility that is located in an existing residential neighborhood or community;

(3) "Home-like" means a residence with living space designed to accommodate the daily living needs and tasks of a family unit, with opportunity for adult-child communication, shared tasks, adult-child learning, congregate meals, and family-type routines appropriate to the ages and levels of functioning of the residents; and

(4) "Psychiatric residential treatment facility" means a licensed, community-based, and home-like facility with a maximum of ***nine (9)***[~~eight (8)~~] beds which provides inpatient psychiatric residential treatment to residents who have an emotional disability or severe emotional disability as defined in KRS 200.503, age six (6) years to twenty-one (21) years with an age range of no greater than five (5) years in a living unit.

Section 2. KRS 216B.455 is amended to read as follows:

(1) A certificate of need shall be required for all psychiatric residential treatment facilities. The application for a certificate of need shall include formal written agreements of cooperation that identify the nature and extent of the proposed working relationship between the proposed psychiatric residential treatment facility and each of the following agencies, organizations, or facilities located in the service area of the proposed facility:

- (a) Regional interagency council for children with emotional disability or severe emotional disability as defined in KRS 200.509;
- (b) Department for Community Based Services;
- (c) Local school districts;
- (d) Psychiatric hospitals; and
- (e) Any other agency, organization, or facility deemed appropriate by the cabinet.

(2) All psychiatric residential treatment facilities shall comply with the licensure requirements as set forth in KRS 216B.105.

(3) All psychiatric residential treatment facilities shall be certified by the Joint Commission on Accreditation of Healthcare Organizations, or the Council on Accreditation, or any other accrediting body with comparable standards that is

recognized by the state.

(4) A psychiatric residential treatment facility shall not be located in or on the grounds of a psychiatric hospital. ***More than one (1) freestanding psychiatric residential treatment facility may be located on the same campus that is not in or on the grounds of a psychiatric hospital.***

(5) The total number of psychiatric residential treatment facility beds shall not exceed ***three hundred and twenty-four (324) beds statewide, and shall be distributed among the state mental hospital districts established by administrative regulations promulgated by the Cabinet for Health Services under KRS 210.300 as follows:***

(a) District I for seventy-two (72) beds;

(b) District II for eighty-one (81) beds;

(c) District III for one hundred seventeen (117) beds; and

(d) District IV for fifty-four (54) beds[~~sixteen (16) beds in any area development district with less than 275,000 population; thirty-two (32) beds in any area development district with 275,000 to 550,000 population; and forty-eight (48) beds in any area development district with over 550,000 population~~].

(6) (a) The Cabinet for Health Services and the Cabinet for Families and Children shall investigate the need for children's psychiatric residential treatment services for specialized populations including, but not limited to, sexual offenders, children with physical and developmental disabilities, and children with dual diagnoses.

(b) The cabinets shall report to the Governor and the Legislative Research Commission by August 1, 2003 on a plan to enable children with specialized needs to be served in community-based psychiatric residential treatment facilities in Kentucky. The plan shall include methods to:

1. Identify the specialized populations;

2. Develop services targeted for the specialized populations; and

3. Establish a Medicaid reimbursement rate for specialized facilities in Kentucky.

Section 3. KRS 216B.459 is amended to read as follows:

The rate of reimbursement for Medicaid eligibles residing in ***nine (9)***[~~eight (8)~~] bed psychiatric residential treatment facilities shall not exceed the rate of reimbursement for Medicaid eligibles residing in ***eighteen (18)***[~~sixteen (16)~~] bed psychiatric residential treatment facilities.

HB 763, AN ACT relating to training for caregivers of long-term care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) As a condition of licensure, a long-term care facility as defined in KRS 216.535, or a long-term care facility constructed under KRS 216B.071 that provides care for persons with a medical diagnosis of Alzheimer's disease or other related disorders, shall be required to provide specialized dementia-care training as follows:

(a) Each facility employee shall be provided with basic written and verbal information about interacting with persons with Alzheimer's disease or a related disorder. This information shall be provided at the time of initial employment for those employees hired after the effective date of this Act and within one (1) month after the effective date of this Act for previously hired employees.

(b) In addition to the information required under paragraph (a) of this subsection, each facility employee who will have, or whose responsibilities require, direct contact with residents with Alzheimer's disease or a related disorder shall have initial training and meet a competency examination that is completed within one (1) month after commencing employment or, for those employees hired after the effective date of this Act, within one (1) month after the effective date of this Act. This training shall include, but is not limited to, an overview of dementia and shall provide basic skills in communicating with persons with dementia; and

(c) 1. Each facility employee who provides direct care to persons diagnosed with Alzheimer's disease or related conditions shall be considered a direct caregiver who must complete the required training under paragraph (b) of this subsection and who must meet a competency examination within three (3) months after commencing employment or, for those employees hired after the effective date of this Act, within three (3) months after the effective date of this Act. This training shall include, but not be limited to, managing challenging behaviors, promoting the resident's independence in activities of daily living, communication skills, stress management, and skills in working with families and other caregivers.

2. Each facility employee who is considered a direct caregiver under this section shall have annual continuing education in the area of Alzheimer's disease or related disorders appropriate to the needs of the population he or she serves.

(2) (a) The training provided under paragraphs (b) and (c) of subsection (1) shall be in accordance with guidelines established by the Alzheimer's Disease and Related Disorders Advisory Council. The Office on Alzheimer's Disease and Related Disorders shall maintain a list of approved Alzheimer's dementia training resources that

are developed in consultation, as necessary, with public or private agencies, organizations, and institutions of higher learning with expertise in Alzheimer's or dementia care.

(b) The training shall be in a variety of formats, including but not limited to, internet-based and computer-based training, videos, and individual and classroom instruction.

(c) The council shall establish standards for trainers and training requirements under this section, and the Cabinet for Health Services shall promulgate an administrative regulation under KRS Chapter 13A to implement these requirements.

(3) The total training time and curriculum that may be provided to certified nursing assistants, nurses, or other health professionals under this section shall be included as part of the total number of hours required for annual training for those health professionals and shall not be deemed to constitute additional training requirement.

(4) Upon completion of any training required under this section, the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic or topics covered, and the date and signature of the training provider. This certificate shall constitute evidence of completion or competency of the identified topic, and the employee shall not be required to repeat training in that topic if the employee changes employment to a different long-term care facility as defined in KRS 216.535.

(5) The facility shall designate a person who will be responsible for developing and implementing staff training programs. This required training shall count toward any annual training or continuing education requirements that may otherwise be required for certified nurse assistants, nurses, and other licensed or certified health care practitioners by their respective licensing or certification entities.

The Committee Substitute to **HB 763** is as follows:

HB 763, AN ACT relating to training for caregivers of long-term care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

A long-term care facility as defined in KRS 216.535, except for a personal care home, that advertises to provide special care for persons with a medical diagnosis of Alzheimer's disease or other related disorders or maintains an identifiable unit for the treatment of persons with a medical diagnosis of Alzheimer's disease or other related disorders shall provide training to all staff members in the care and handling of Alzheimer's disease or other related disorders as follows:

(1) At least eight (8) hours of orientation related to Alzheimer's disease or other related disorders to include the following:

(a) Facility policies;

(b) Etiology and treatment;

(c) Disease stages;

(d) Behavior management; and

(e) Residents' rights; and

(2) Annual continuing education of at least five (5) hours related to Alzheimer's disease or other related disorders.

HJR 191, A JOINT RESOLUTION directing the Cabinet for Health Services to study the problem of teenage in-vehicle drinking and related drug abuse.

WHEREAS, teenagers with ready access to the motor vehicle have become increasingly mobile; and

WHEREAS, in the United States in 1998, 1,695 youths in the 15- to 19-year-old age range lost their lives as a result of alcohol-related traffic accidents; and

WHEREAS, the Aluminum Anonymous Project surveyed 1,072 miles of Kentucky roadsides from Pikeville to Hazard to London to Lebanon to Glasgow to the Tennessee state line, and from the West Virginia state line to Maysville to Frankfort to Owensboro to Hopkinsville in September 1997, November 1998, and October 2000 for the discard rate of alcohol beverage containers, finding an average of 1,025 beer cans or beer bottles per mile of road annually; and

WHEREAS, the Aluminum Anonymous Project followed up the survey with "Who's Doing the Tossing?" interviews of professionals working with teens and adults in alcohol and drug settings, and it was estimated that 50% of the discarded alcohol containers were coming from teenagers; and

WHEREAS, in spite of the January 2001 national survey of teenagers by the National Institute on Alcohol Abuse and Alcoholism (NIAAA) that includes questions of drinking and drug use while driving and riding, perhaps for the first time at the federal level, too little is known about alcohol and drug behavior of Kentucky teenagers after the car doors close; and

WHEREAS, the January 2001 report of the National Center on Substance Abuse and Addiction, "Shoveling Up: Impact of Substance Abuse on State Budgets," states that only 1% of the $957 million total that is spent annually on substance abuse problems is for prevention and treatment;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Cabinet for Health Services, in cooperation with the Transportation Cabinet, the Justice Cabinet, the Kentucky Agency for Substance Abuse Policy, the Department for Juvenile Justice, and the Cabinet for Families and Children, and any other appropriate state agency or commission that deals with or has or should have knowledge of the problem of teenage in-vehicle drinking and related drug use, shall study this problem by:

(1) Assembling what is known about this behavior, its dynamics, prevalence and incidence;

(2) Identifying gaps in knowledge, program, policy and interagency interaction; and

(3) Recommending action that should be taken by the involved state agencies and the Kentucky General Assembly.

Section 2. The Cabinet for Health Services shall report by October 1, 2002, to the Governor and the Legislative Research Commission with a recommended plan of action for policy and program that would comprehensively incorporate teenage in-vehicle drinking and related drug use into the scope of the state's prevention strategies. The report shall include, if appropriate, the identification of new programs along with their estimated costs.

SB 56, AN ACT relating to the Kentucky Breast and Cervical Cancer Treatment Act of 2002 and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 205.510 TO 205.645 IS CREATED TO READ AS FOLLOWS:

(1) The Department for Medicaid Services shall expand Medicaid coverage to offer benefits to uninsured women who:

(a) Are under age sixty-five (65);

(b) Are not otherwise eligible for Medicaid;

(c) Have been screened for breast or cervical cancer or precancerous conditions, or any combination of these conditions, through the Centers for Disease Control and Prevention's National Breast and Cervical Cancer Early Detection Program or through the Department for Public Health's Women's Cancer Screening Program;

(d) Are in need of treatment for breast or cervical cancer or precancerous conditions, or any combination of these conditions, as a result of a diagnosis of those conditions in a program identified in paragraph (c) of this subsection;

(e) Are not otherwise covered under creditable coverage, as defined in 42 U.S.C. sec. 300gg(c); and

(f) Meet any other eligibility required criteria established under the Federal Breast and Cervical Cancer Prevention and Treatment Act of 2000.

(2) No later than three (3) months after the effective date of this Act, the department shall submit to the secretary of the Federal Department for Health and Human Services a request for approval of a plan amendment to extend coverage as authorized under subsection (1) of this section.

(3) Within three (3) months following receipt of federal approval of a plan amendment, the department shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the requirements of this section. If federal approval has not been received within six (6) months after the effective date of this Act for the plan amendment, the department shall report the status of the request for approval and the steps being taken by the department to secure federal approval.

(4) Medical assistance provided under the plan amendment shall be limited to medical assistance provided during the period in which a woman who meets the requirements of subsection (1) of this section requires treatment for breast or cervical cancer or precancerous conditions, or any combination of these conditions. In the case of any covered woman whose medical assistance has been terminated due to a cure or remission of a condition diagnosed under paragraph (c) of subsection (1) of this section, medical assistance shall be reinstituted for any subsequent periods of recurrence or metastasis or any future conditions establishing eligibility under subsection (1) of this section.

(5) This section shall be known as the Kentucky Breast and Cervical Cancer Treatment Act of 2002.

Section 2. Whereas breast and cervical cancer are among the leading causes of death for women in this Commonwealth and access to treatment for these conditions will help save lives, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

SB 153, AN ACT relating to the practice of dentistry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) The board may grant a temporary license to a dentist or dental hygienist who holds a currently valid license from another state, district, possession, or territory of the United States for the sole purpose of providing medical care to

indigent populations who may not otherwise be able to obtain such services, without expectation of compensation or charge to the individual, and without payment or reimbursement by any governmental agency or insurer. The health care services shall be provided to charitable organizations only. The license shall be valid for a seven (7) day period.

(2) To obtain the temporary license issued under subsection (1) of this section, the dentist or dental hygienist shall:

- ***(a) Apply to the Board of Dentistry at least thirty (30) days prior to providing the health care services under subsection (1) of this section;***
- ***(b) Include in the application a letter from the jurisdiction in which the dentist or dental hygienist is licensed that indicates the applicant's license number and a statement that indicates that the dentist or the dental hygienist is in good standing in the licensing jurisdiction; and***
- ***(c) Pay a twenty-five dollars ($25) registration fee.***

(3) Prior to beginning the services permitted under subsection (1) of this section, the dentist or dental hygienist shall notify the appropriate agent in the Cabinet for Health Services.

(4) A dentist or dental hygienist working under this section may perform all preventive procedures and treatments including, but not limited to, scaling, prophylaxis, radiographs, sealants, and fluoride application.

(5) In addition to the procedures permitted under subsection (4) of this section, a dentist may perform those procedures or treatments considered to be routine in nature and that are typically performed and completed in one (1) appointment. The procedures include simple extractions and basic restorative procedures. All procedures performed other than those provided in this subsection and subsection (4) of this section shall be performed by a dentist holding a currently valid license in the Commonwealth.

(6) The board shall promulgate administrative regulations that are reasonably necessary to administer this section.

Section 2. KRS 216.941 is amended to read as follows:

(1) Notwithstanding any provision of law to the contrary, no additional license or certificate otherwise required under the provisions of KRS Chapters 211, 216, 311, 312,[~~ 313,~~] or 314 shall be necessary for the voluntary provision of health care services by any person who:

- (a) Is a charitable health care provider as defined in KRS 216.940; or
- (b) Does not regularly practice in the Commonwealth.

(2) No person whose license or certificate is suspended or revoked under disciplinary proceedings in any jurisdiction, nor any person who renders services outside of the scope of practice authorized by his or her licensure or certification or exception to license or certification shall be allowed to participate with any sponsoring organization as a charitable health care provider.

(3) Before providing charitable health care services in this state, a charitable health care provider or sponsoring organization shall register with the Cabinet for Health Services by filing a registration form that shall contain the following information:

- (a) The name, address, and phone number of the charitable health care provider;
- (b) Written and verifiable documentation of a current Kentucky license including, if applicable, a license granted to an individual under a reciprocal agreement with another state or country;
- (c) The name, principal office address, phone number, and principal officer of any sponsoring organization;
- (d) The dates, locations, types of services, and intended recipients of any charitable health care services to be performed in the state;
- (e) Information as to any medical malpractice insurance procured under KRS 304.40-075 or otherwise; and
- (f) Other information as the cabinet may require by administrative regulation.

(4) The cabinet shall provide, upon request of the charitable health care provider or sponsoring organization, any information available as to declared emergencies, underserved populations, and lack of access to health care in the state that will assist the charitable health care provider or sponsoring organization in the provision of these services.

(5) Boards of health created under KRS Chapter 212 may submit requests for charitable health care providers in their jurisdictions to be listed in any information provided.

(6) Each sponsoring organization shall maintain a list of health care providers associated with its provision of charitable health care services. For each health care provider, the sponsoring organization shall maintain a copy of a current license, certificate, or statement of exemption from licensure or certification and shall require each health care provider to attest in writing that his or her license or certificate is not suspended or revoked under disciplinary proceedings in any jurisdiction. The sponsoring organization shall maintain its records of charitable health care providers for at least five (5) years after the provision of charitable health care services, including actual dates, types of services, and recipients of charitable health care services, and shall furnish these records upon the request of the Cabinet for Health Services. Compliance with this section shall be prima facie evidence that the sponsoring organization has exercised due care in selecting charitable health care providers.

(7) The cabinet may revoke the registration of any charitable health care provider or sponsoring organization for failure to comply with the provisions of KRS 216.940 to 216.945, in accordance with the provisions of KRS Chapter 13B.

(8) The cabinet shall report to the General Assembly the name and location of individuals registered with the cabinet as charitable health care providers, by October 1 of each year.

Section 3. KRS 216.942 is amended to read as follows:

With regard to a person who provides charitable health care services under KRS 216.941, the provisions of KRS Chapters 211, 216, 311, 312,[~~ 313,~~] or 314 shall not apply with respect to itinerant providers, licensing, or certification and all requirements regarding display of a license or certification shall be satisfied by the presentation for inspection, upon request, of a photocopy of the applicable license, certificate, or statement of exemption from the state, territory, district, or possession of the United States in which the provider is licensed, certified, or exempt.

The Committee Substitute to **SB 153** is as follows:

SB 153, AN ACT relating to the practice of dentistry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) The board may grant a temporary license to a dentist or dental hygienist who holds a currently valid license from another state, district, possession, or territory of the United States for the sole purpose of providing medical care to indigent populations who may not otherwise be able to obtain such services, without expectation of compensation or charge to the individual, and without payment or reimbursement by any governmental agency or insurer. The health care services shall be provided to charitable organizations only. The license shall be valid for a seven (7) day period.

(2) To obtain the temporary license issued under subsection (1) of this section, the dentist or dental hygienist shall:

(a) Apply to the Board of Dentistry at least thirty (30) days prior to providing the health care services under subsection (1) of this section;

(b) Include in the application a letter from the jurisdiction in which the dentist or dental hygienist is licensed that indicates the applicant's license number and a statement that indicates that the dentist or the dental hygienist is in good standing in the licensing jurisdiction; and

(c) Pay a twenty-five dollars ($25) registration fee.

(3) Prior to beginning the services permitted under subsection (1) of this section, the dentist or dental hygienist shall notify the appropriate agent in the Cabinet for Health Services.

(4) A dentist or dental hygienist working under this section may perform all preventive procedures and treatments including, but not limited to, scaling, prophylaxis, radiographs, sealants, and fluoride application.

(5) In addition to the procedures permitted under subsection (4) of this section, a dentist may perform those procedures or treatments considered to be routine in nature and that are typically performed and completed in one (1) appointment. The procedures include simple extractions and basic restorative procedures. All procedures performed other than those provided in this subsection and subsection (4) of this section shall be performed by a dentist holding a currently valid license in the Commonwealth.

(6) A dentist or dental hygienist working under this section who registers as a charitable health care provider under Section 2 of this Act shall be eligible for the provision of medical malpractice insurance procured under KRS 304.40-075.

(7) The board shall promulgate administrative regulations that are reasonably necessary to administer this section.

Section 2. KRS 216.941 is amended to read as follows:

(1) Notwithstanding any provision of law to the contrary, no additional license or certificate otherwise required under the provisions of KRS Chapters 211, 216, 311, 312,[~~ 313,~~] or 314 shall be necessary for the voluntary provision of health care services by any person who:

(a) Is a charitable health care provider as defined in KRS 216.940; or

(b) Does not regularly practice in the Commonwealth.

(2) No person whose license or certificate is suspended or revoked under disciplinary proceedings in any jurisdiction, nor any person who renders services outside of the scope of practice authorized by his or her licensure or certification or exception to license or certification shall be allowed to participate with any sponsoring organization as a charitable health care provider.

(3) Before providing charitable health care services in this state, a charitable health care provider or sponsoring organization shall register with the Cabinet for Health Services by filing a registration form that shall contain the following information:

(a) The name, address, and phone number of the charitable health care provider;

(b) Written and verifiable documentation of a current Kentucky license including, if applicable, a license granted to an individual under a reciprocal agreement with another state or country;

(c) The name, principal office address, phone number, and principal officer of any sponsoring organization;

(d) The dates, locations, types of services, and intended recipients of any charitable health care services to be performed in the state;

(e) Information as to any medical malpractice insurance procured under KRS 304.40-075 or otherwise; and

(f) Other information as the cabinet may require by administrative regulation.

(4) The cabinet shall provide, upon request of the charitable health care provider or sponsoring organization, any information available as to declared emergencies, underserved populations, and lack of access to health care in the state that will assist the charitable health care provider or sponsoring organization in the provision of these services.

(5) Boards of health created under KRS Chapter 212 may submit requests for charitable health care providers in their jurisdictions to be listed in any information provided.

(6) Each sponsoring organization shall maintain a list of health care providers associated with its provision of charitable health care services. For each health care provider, the sponsoring organization shall maintain a copy of a current license, certificate, or statement of exemption from licensure or certification and shall require each health care provider to attest in writing that his or her license or certificate is not suspended or revoked under disciplinary proceedings in any jurisdiction. The sponsoring organization shall maintain its records of charitable health care providers for at least five (5) years after the provision of charitable health care services, including actual dates, types of services, and recipients of charitable health care services, and shall furnish these records upon the request of the Cabinet for Health Services. Compliance with this section shall be prima facie evidence that the sponsoring organization has exercised due care in selecting charitable health care providers.

(7) The cabinet may revoke the registration of any charitable health care provider or sponsoring organization for failure to comply with the provisions of KRS 216.940 to 216.945, in accordance with the provisions of KRS Chapter 13B.

(8) The cabinet shall report to the General Assembly the name and location of individuals registered with the cabinet as charitable health care providers, by October 1 of each year.

Section 3. KRS 216.942 is amended to read as follows:

With regard to a person who provides charitable health care services under KRS 216.941, the provisions of KRS Chapters 211, 216, 311, 312,[~~ 313,~~] or 314 shall not apply with respect to itinerant providers, licensing, or certification and all requirements regarding display of a license or certification shall be satisfied by the presentation for inspection, upon request, of a photocopy of the applicable license, certificate, or statement of exemption from the state, territory, district, or possession of the United States in which the provider is licensed, certified, or exempt.

The Committee on Health and Welfare reported **SB 125,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Reported to the Committee on Rules.

Calendar

HB 846 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions, and Communications

Representative Thomas moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Thomas moved the adoption of the following **Legislative Citation No. 84**.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to adjourn this legislative day in loving memory of Philip Irl Huddleston and to join Speaker Jody Richards in expressing profound sympathy to all who share in the loss of this remarkable gentleman, the devoted husband of Margaret Ryan Huddleston; and the beloved father of Cameron and Robin, and step-son, Ryan. A graduate of Dartmouth College and the Vanderbilt University School of Law, Mr. Huddleston labored as an Assistant U.S. Attorney from 1966-69, before entering private practice as a senior partner at Huddleston & Huddleston, in Bowling Green, Kentucky. A tireless member of the legal community, he focused his work in the fields of civil litigation, corporate and bankruptcy law; was admitted to practice before the U.S. Supreme Court, the U.S. Court of Appeals for the Sixth Circuit and the U.S. District Courts for Western and Eastern Kentucky; was listed in Martindale-Hubbell, Bar Register of Preeminent Lawyers with the highest ranking of "AV;" authored articles published in various legal publications; and lectured at numerous meetings of the Kentucky Bar Association, the Kentucky Academy of Trial Lawyers, and the Kentucky School Board Association. Also an active member of the Kentucky Academy of Trial Attorneys, the Federal Bar Association, the American

Bankruptcy Institute and the KBA, where he held several positions, he was elected to the Bowling Green Independent Schools Board of Education, where he served as chairman, and was appointed to the Kentucky Council for Postsecondary Education and the Kentucky Primary through 16 Council from 1998-2001. Philip Irl Huddleston is paid ardent tribute on this day for living a life which earned him the love and devotion of his family and friends and the respect and good will of his colleagues and fellow citizens. Done in Frankfort, Kentucky, this twelfth day of March, in the year two thousand and two.

Legislative Citation No. 84 was adopted without objection.

Representative Bowling moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Bowling moved the adoption of the following **Legislative Citation No. 83**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the Boyle County High School Marching Band for outstanding performance that resulted in this talented group of students winning state championship honors in the Class A Division of the 2001 Kentucky Music Educators Association State Marching Band Competition. Inasmuch as this prestigious accomplishment represents the exceptional talent and dedication each of the members of this fine band has committed to the pursuit of excellence in the performing arts, the members of this distinguished body are pleased to join Representative John W.D. Bowling in commending the Boyle County High School Marching Band for the effort put forth in this most worthwhile endeavor and in extending best wishes for continued landmarks of success. Done in Frankfort, Kentucky this twelfth day of March, in the year two thousand and two.

Legislative Citation No. 83 was adopted without objection.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 7, SB 18, SB 70,** and **SB 149** been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:33 p.m.)

Orders of the Day

HB 650 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Draud moved that **HB 650** be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 12, 2002, roll call on **HB 650** - Appendix.)

HB 650 was passed and the title agreed to.

Representative Draud moved that the vote by which **HB 650** was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 207, HB 244, HB 283, HB 309, HB 330, HB 353,** and **HB 399** were delivered to the Senate and signed by the President. Delivered to the Governor on March 12 at 2:30 p.m.

Orders of the Day (Continued)

HB 685, with Committee Substitute, Committee Amendment, and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved the adoption of the Committee Substitute to **HB 685**. Agreed.

Representative J. Lee moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 685**. Agreed.

Representative Ford moved that **HB 685**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 12, 2002, roll call on **HB 685** - Appendix.)

HB 685, by way of Committee Substitute, as amended, was passed.

Representative Ford moved that the vote by which **HB 685**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 158 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved that **HCR 158** be adopted.

On the roll call the vote was: **Yeas 99, Nays 0**. (See March 12, 2002, roll call on **HCR 158** - Appendix.)

HCR 158 was adopted.

Representative Rasche moved that the vote by which **HCR 158** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 530, with Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 530** be returned to the Orders of the Day and retain its position. Agreed.

HB 633 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 633** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 12, 2002, roll call on **HB 633** - Appendix.)

HB 633 was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 633** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 656, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved the adoption of Floor Amendment No. 2 to **HB 656**. Agreed.

Representative Webb moved that **HB 656**, as amended, be passed.

On the roll call the vote was: **Yeas 88, Nays 11**. (See March 12, 2002, roll call on **HB 656** - Appendix.)

HB 656, as amended, was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 656**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 749 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **HB 749** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 12, 2002, roll call on **HB 749** - Appendix.)

HB 749 was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 749** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 759, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HB 759**. Agreed.

Representative Geveden moved that **HB 759**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 12, 2002, roll call on **HB 759** - Appendix.)

HB 759, by way of Committee Substitute, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 759**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 775 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Denham moved that **HB 775** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 12, 2002, roll call on **HB 775** - Appendix.)

HB 775 was passed and the title agreed to.

Representative Denham moved that the vote by which **HB 775** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 792, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Turner moved the adoption of Floor Amendment No. 1 to **HB 792**. Agreed.

Representative Gooch moved that **HB 792**, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 12, 2002, roll call on **HB 792** - Appendix.)

HB 792, as amended, was passed and the title agreed to.

Representative Gooch moved that the vote by which **HB 792**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 809, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Childers moved the adoption of Committee Amendment No. 1 to **HB 809**. Agreed.

Representative J. Turner moved the adoption of Floor Amendment No. 1 to **HB 809**. Agreed.

Representative Childers moved that **HB 809**, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 12, 2002, roll call on **HB 809** - Appendix.)

HB 809, as amended, was passed and the title agreed to.

Representative Childers moved that the vote by which **HB 809**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 184 with Committee Substitute taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved the adoption of the Committee Substitute to **HCR 184**. Agreed.

Representative Yonts moved that **HCR 184** by way of Committee Substitute be adopted.

On the roll call the vote was: **Yeas 90, Nays 1**. (See March 12, 2002, roll call on **HCR 184** - Appendix.)

HCR 184 was adopted.

Representative Yonts moved that the vote by which **HCR 184,** by way of Committee Substitute was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 75 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Belcher moved that **HB 75** be passed.

On the roll call the vote was: **Yeas 93, Nays 1**. (See March 12, 2002, roll call on **HB 75** - Appendix.)

HB 75 was passed and the title agreed to.

Representative L. Belcher moved that the vote by which **HB 75** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 681 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HB 681** be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 12, 2002, roll call on **HB 681** - Appendix.)

HB 681 was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 681** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 686 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HB 686** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 12, 2002, roll call on **HB 686** - Appendix.)

HB 686 was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 686** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 829 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved that **HB 829** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 12, 2002, roll call on **HB 829** - Appendix.)

HB 829 was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 829** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 160 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved that **HJR 160** be adopted.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 12, 2002, roll call on **HJR 160** - Appendix.)

HJR 160 was adopted.

Representative Cherry moved that the vote by which **HJR 160** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 618, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Clark moved the adoption of the Committee Substitute to **HB 618**. Agreed.

Representative P. Clark moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 618**. Agreed.

Representative P. Clark moved that **HB 618**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 89, Nays 7**. (See March 12, 2002, roll call on **HB 618** - Appendix.)

HB 618, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative P. Clark moved that the vote by which **HB 618**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Speaker Pro Tem L. Clark assumed the Chair.

HB 314, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non concurrence in Senate Amendment. Agreed.

The Senate Committee Substitute to **HB 314** is as follows:

HB 314, AN ACT relating to the coordination of local government finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 11 of this Act, unless the context requires otherwise:

(1) "Base revenue level" means the average amount of revenue collected by a county and the cities within the county from occupational license fees or insurance premium taxes for the three (3) tax years immediately preceding the initiation of a tax base coordination process set forth in Sections 1 to 11 of this Act or the amount of revenue collected by a county and the cities within the county from occupational license fees or insurance premium taxes for the tax year immediately preceding the initiation of the tax base coordination process set forth in Sections 1 to 11 of this Act, whichever is greater.

(2) "Insurance premium tax" means the fees or taxes imposed by a city or county upon insurance companies pursuant to Section 13 of this Act for the privilege of engaging in the business of insurance within the city or county.

(3) "Local tax effort" means the taxes and fees levied by a county and the cities within the county. It shall not include intergovernmental transfers, nontax service fees, impact fees, grants, mineral or severance tax funds, or other nontax sources.

(4) "Occupational license fees" means fees imposed by a city or county upon the salary, wages, compensation, gross profits, net profits, or other basis of businesses, trades, occupations, or professions pursuant to KRS 67.083, Section 12 of this Act, KRS 92.280, or 92.281 for the privilege of engaging in business within the city or county. It shall not include license taxes or fees imposed by a county to finance a public service program pursuant to KRS 68.510 to 68.550.

(5) "Revenue growth" means the amount of revenue generated from occupational license fees and insurance premium taxes imposed by a county and the cities within the county in a tax year, minus the base revenue level.

(6) "Tax base coordination agreement" means an agreement approved by a county and the cities within the county in accordance with the provisions of Sections 1 to 11 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) It is the purpose of Sections 1 to 11 of this Act to:

(a) Create a framework and a process that will enable a county and the cities within the county to resolve conflicts arising from the levy and collection of occupational license fees and insurance premium taxes; and

(b) Encourage counties and cities to share revenues from occupational license fees and insurance premium taxes based on relative service responsibility and the reasonable cost of providing services while leaving the actual decisions regarding the allocation of service responsibilities to local governments; and

(c) Encourage counties and cities to collect and enforce occupational license fees and insurance premium taxes more efficiently and economically by utilizing a single, county-wide collection agency; and

(d) Recognize that counties provide services that benefit all residents of the county and city residents should pay a fair share of the costs of these services, but that city residents should not pay for services provided solely or primarily to benefit the residents of unincorporated areas and residents of unincorporated areas should not pay for services provided solely or primarily to benefit city residents.

(2) It is the intent of the General Assembly that the provisions of Sections 1 to 11 of this Act shall:

(a) Be supplemental to any other statutory means of resolving tax base conflicts; and

(b) Not eliminate the tax authorizations and requirements including mandatory tax credits contained in Section 12 of this Act and Section 13 of this Act, except as provided in Sections 1 to 11 of this Act; and

(c) Not interfere with other cooperative arrangements in effect between a city and county prior to the initiation of the provisions of Sections 1 to 11 of this Act as long as a conflict does not exist;

(d) Not apply in counties containing a city of the first class, an urban-county, charter county, or consolidated local government;

(e) Not apply in any county with a population of less than thirty thousand (30,000), as shown by the 2000 decennial census by the United States Bureau of the Census; and

(f) Not preclude any local governments from sharing revenues other than insurance premium taxes and occupational license fees unless prohibited by law.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The tax base coordination process established by Sections 1 to 11 of this Act may be initiated as follows:

(a) The fiscal court of a county may initiate the tax base coordination process by enacting a resolution stating its desire to negotiate a tax base coordination agreement with the cities within the county. The county judge/executive shall send, by certified mail, a copy of the resolution to the Department for Local Government and the chief executive officer of each city within the county within ten (10) days of enactment of the resolution; or

(b) The legislative bodies of one or more cities whose combined populations equal seventy-five percent (75%) of the total population of the incorporated areas of a county as determined by the most recent decennial census or annual census estimate by the United States Bureau of the Census may initiate the tax base coordination process by enacting resolutions stating the desire of the cities to negotiate a tax base coordination agreement with the county and the other cities within the county. The mayor of each city shall send, by certified mail, a copy of the resolution to the Department for Local Government, the county judge/executive, and the chief executive officer of each other city within the county within ten (10) days of the enactment of the resolution.

(2) The Department for Local Government shall notify the county judge/executive and the chief executive officer of each city within the county that the tax base coordination process has been initiated within ten (10) days of receipt of the resolution of the county or receipt of resolutions from the required number of cities.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Upon enactment of a resolution by the fiscal court of a county or the legislative body of any city within the county stating its desire to negotiate a tax base coordination agreement as provided by Sections 1 to 11 of this Act, neither the county nor any city within the county may give first reading to any ordinance or enact a resolution to impose or repeal an occupational license fee or insurance premium tax or to alter the rate of an existing occupational license fee or insurance premium tax and no new credits against the county taxes for taxes paid to the cities within that county shall be recognized until a tax base coordination agreement has been adopted in accordance with the provisions of Sections 1 to 11 of this Act.

(2) If a resolution initiating the tax base coordination process is enacted by a city, the provisions of subsection (1) of this section shall not apply after ninety (90) days following the enactment of the resolution unless the county or a sufficient number of cities within the county have enacted resolutions to initiate the tax base coordination process as provided in Section 3 of this Act.

(3) If a resolution initiating the tax base coordination process is enacted by a city and the county or a sufficient number of cities within the county do not enact resolutions to initiate the tax base coordination process within the period provided by subsection (2) of this section, neither the county nor any city within the county may initiate the tax base coordination process within one (1) year of the expiration of the ninety (90) day period set forth in subsection (2) of this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Upon notification by the Department of Local Government in accordance with Section 3 of this Act, the county and all

cities within the county shall engage in a joint deliberative process designed to produce a tax base coordination agreement.

(2) A recommended tax base coordination agreement shall be developed by a joint committee composed of city and county representatives with membership determined as follows:

(a) If there is unanimous agreement as to the composition of the joint committee among the county and all cities with a population of three thousand (3,000) or more persons within the county, and concurrent agreement by a majority of the cities with a population of less than three thousand (3,000) persons as determined by the most recent decennial census or annual census estimates by the United States Bureau of the Census, the committee may be composed of any membership the local governments may agree upon; or

(b) If the level of agreement required by subsection (2)(a) of this section is not obtained, the joint committee shall be comprised of a minimum of six (6) members, but may be comprised of a greater number of members. Membership of the committee shall be evenly divided between the county and the cities within the county. The county and city representatives shall be appointed as follows:

1. The county shall be represented on the joint committee by the county judge/executive or his designee and the remaining county representatives shall be appointed by the county judge/executive with the approval of the fiscal court.

2. If there is only one (1) city within the county, the city shall be represented by the mayor, or his designee, and the remaining representatives shall be appointed by the mayor with the approval of the city legislative body.

3. If there is more than one (1) city within the county, the cities shall be represented by the mayor of the city with the largest population as determined by the most recent decennial census or annual census estimate by the United States Bureau of the Census, or his designee, and the remaining representatives shall be appointed by joint action of a majority of the mayors of the total number of cities within the county.

(c) All appointments to the joint committee shall be made within forty-five (45) days after notification by the Department for Local Government in accordance with Section 3 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

A tax base coordination agreement shall:

(1) Identify and minimize the duplication of services among the various governmental jurisdictions to the greatest extent possible;

(2) Identify services that are funded by the local taxing effort and, to the extent possible, allocate revenues from the occupational license fee and insurance premium tax among the county and the cities within the county based on the responsibility for providing these services;

(3) Preserve each jurisdiction's right to levy its own taxes;

(4) Preserve and not interfere with any dedicated tax levies that have been approved by the voters or tax levies that are legally dedicated to the retirement of bonds or that are contractually obligated;

(5) Establish a base year revenue level for the county and each city within the county that must be preserved except as provided in subsection (8) of this section;

(6) Determine how tax rate increases and decreases and the imposition and elimination of taxes will be handled;

(7) Allocate revenue growth beyond the base revenue level among the county and the cities within the county based upon the provision of services that are funded from the local tax base effort;

(8) Provide that if the total revenues collected within the county from insurance premium taxes and occupational license fees fall below the base revenue level, then revenues from those taxes and fees shall be allocated to each local government based on their proportionate share of the combined base revenue level or by some other method specified in the agreement; and

(9) Have a minimum effective period of ten (10) years.

SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) A tax base coordination agreement shall be effective and be binding upon the county and each city within the county upon adoption of an ordinance approving the agreement by the fiscal court and each of the legislative bodies of a number of cities representing seventy-five percent (75%) or more of the population within the incorporated areas of the county as determined by the most recent decennial census or annual census estimates by the United States Bureau of the Census. Notwithstanding the provisions of KRS 67.077, a county ordinance approving a tax base coordination agreement shall comply with the same publication requirements as required for city ordinances in KRS 83A.060.

(2) Within ten (10) days after the final approval of a tax base coordination agreement in accordance with subsection (1) of this section, the county judge/executive shall send a copy of the agreement to the Department for Local Government. If the agreement involves insurance premium taxes, the county judge/executive shall also send a copy of the final agreement to the Department of Insurance.

SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) A tax base coordination agreement may be reviewed and revised as necessary, subject to the same requirements that apply to the initial approval, but at a minimum, the agreement shall be reviewed and revised:

(a) At least every ten (10) years from when the negotiating process is initiated;

(b) Whenever the process of negotiating a tax base coordination agreement is reinitiated by the county or by the number of cities required to initially begin the process based on significant and identifiable changes in the laws or economic circumstances that make the current tax base coordination agreement unworkable; or

(c) In the event of the creation, abolition, or consolidation of governments within the county.

(2) A tax base coordination agreement may be terminated by a vote of the fiscal court and its cities in the same manner and numbers as required to approve the agreement. Termination of a tax base coordination agreement shall be effective the following July 1, provided notice of the termination is given to the Department for Local Government and the Department of Insurance at least one hundred (100) days prior to July 1.

SECTION 9. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

A tax base coordination agreement may supersede the crediting requirements on county occupational license fees as set forth in subsection (1) of Section 12 of this Act and on insurance premium taxes as set forth in Section 13 of this Act as long as the tax base coordination agreement is in effect. Any provision of an agreement that supercedes the crediting requirement on insurance premium taxes shall be effective the following July 1, provided notice of the agreement is given to the Department of Insurance at least one hundred (100) days prior to July 1.

SECTION 10. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) If a county and the cities within the county are unable to successfully negotiate a tax base coordination agreement within eighteen (18) months of notification by the Department for Local Government in accordance with Section 3 of this Act, the local governments shall notify the Department for Local Government and attempt to resolve their differences through mediation by a neutral third party mediator.

(2) The mediator shall be appointed by the Commissioner of the Department for Local Government, with the consent of the county and a majority of the cities within the county, from a list of trained mediators.

(3) The cost of mediation shall be apportioned among the county and the cities within the county based on relative population

(4) The mediator shall render his or her final report on the matter not later than ninety (90) days following the final submission of the matter to the mediator.

(5) The mediator's report shall not be binding upon any party and any tax base coordination agreement offered by the mediator but not agreed to by the county and the cities within the county as required by Section 7 of this Act shall be void. Failure of the county and the cities within the county to adopt a tax base coordination agreement following mediation shall not affect the continuation of the provisions of Section 4(1) of this Act.

SECTION 11. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 11 of this Act may be cited as the Local Government Service and Tax Base Coordination Act.

Section 12. KRS 68.197 is amended to read as follows:

(1) The fiscal court of each county having a population of thirty thousand (30,000) or more may by ordinance impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing. License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, may be imposed at a percentage rate not to exceed one percent (1%) of:

(a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county;

(b) The net profits of self-employed individuals, partnerships, professional associations, or joint ventures resulting from trades, professions, occupations, businesses, or activities conducted in the county; and

(c) The net profits of corporations resulting from trades, professions, occupations, businesses, or activities conducted in the county.

In order to reduce administrative costs and minimize paperwork for employers, employees, and businesses, the fiscal court may provide:

1. For an annual fixed amount license fee which a person may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on salaries, wages, commissions, and other compensation earned within the county for work done and services performed or rendered in the county; and

2. For an annual fixed amount license fee which an individual, partnership, professional association, joint venture, or corporation may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on net profits of businesses, trades, professions, or occupations from activities conducted in the county.

Licenses imposed for regulatory purposes are not subject to such limitations as to form and amount. No public service company that pays an ad valorem tax is required to pay a license tax, and no license tax shall be imposed upon or collected from any insurance company except as provided in KRS 91A.080, bank, trust company, combined bank and trust company, combined trust, banking, and title business in this state, or any savings and loan association whether state or federally chartered, or in other cases where the county is prohibited by law from imposing a license tax.

(2) No license fee shall be imposed or collected on income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training, or on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections.

(3) Persons who pay a county license fee pursuant to this section and who also pay a license fee to a city contained in the county may, upon agreement between the county and the city, credit their city license fee against their county license fee.

(4) The provisions of subsection (3) of this section notwithstanding, effective with license fees imposed under the provisions of subsection (1) of this section on or after July 15, 1986, persons who pay a county license fee and a license fee to a city contained in the county shall***, subject to the provisions of a tax base coordination agreement adopted in accordance with Sections 1 to 11 of this Act,*** be allowed to credit their city license fee against their county license fee.

(5) On July 14, 2000, the provisions of subsection (4) of this section notwithstanding, city license fees not credited against county license fees enacted under this section or KRS 67.083 as of January 1, 2000, shall not be credited against county license fees. However, this exception shall not apply to county license fees enacted for the first time, or increased, on or after January 1, 2000. This provision shall expire ***on June 30, 2002, in counties containing a city of the first class, urban-counties, charter counties, consolidated local governments, and counties with a population of less than thirty thousand (30,000) as shown by the 2000 decennial census by the United States Bureau of Census, and shall expire in all other counties on June 30, 2003***[~~July 15, 2002, unless otherwise extended by the General Assembly~~].

(6) A county that enacted an occupational license fee under the authority of KRS 67.083 shall not be required to reduce its occupational tax rate when it is determined that the population of the county exceeds thirty thousand (30,000).

Section 13. KRS 91A.080 is amended to read as follows:

(1) The legislative body of each city, county, or urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license fee or rate of tax to be effective July 1 of each year on a prospective basis only and shall file with the commissioner of insurance at least one hundred (100) days prior to the effective date, a copy of all ordinances and amendments which impose any such license fee or tax. No less than eighty-five (85) days prior to the effective date, the commissioner of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those city, county, or urban-county governments which have elected to impose the license fees or taxes and the current amount of the license fee or rate of tax.

(2) Any license fee or tax imposed by a city, county, or urban-county government upon an insurance company with respect to life insurance policies, may be based upon the first year's premiums, and, if so based, shall be applied to the amount of the premiums actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of the city, county, or urban-county government.

(3) Any license fee or tax imposed by a city, county, or urban-county government upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by the company within each calendar quarter on risks located within the corporate limits of the city, county, or urban-county government on those classes of business which the company is authorized to transact, less all premiums returned to policyholders. In determining the amount of license fee or tax to be collected and to be paid to the city, county, or urban-county government, the insurance company shall use the tax rate effective on the first day of the policy term. When an insurance company collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. With respect to premiums returned to policyholders, the license fee or tax shall be returned by the insurance company to the policyholder pro rata on the unexpired amount of the premium at the same rate at which it was collected and shall be taken as a credit by the insurance company on its next quarterly report to the city, county, or urban-county government. Any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of the Workers' Compensation Act.

(4) The Department of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting the tax, except that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the city, county or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection, and remittance of the fee or tax and collection fee provided in this section, the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee in this section, may be rounded off to the nearest dollar amount.

(5) Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this section, the commissioner of insurance shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.

(6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by administrative regulations promulgated by the Department of Insurance.

(7) Upon written request of the legislative body of any city, county, or urban-county government, at the expense of the requesting city, county, or urban-county government, which shall be paid in advance by the city, county, or urban-county government to the Department of Insurance, the Department of Insurance shall examine, or cause to be examined by contract with qualified auditors, the books or records of the insurance companies or agents subject to the fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of the examination shall be reported to the city, county, or urban-county government. Willful failure to properly collect and remit the fee or tax imposed by a city, county, or urban-county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(8) The license fees or taxes provided for by subsections (2) and (3) of this section shall be due thirty (30) days after the end of each calendar quarter. Annually, by March 31, each insurer shall furnish each city, county, or urban-county government to which the tax or fee is remitted with a breakdown of all collections in the preceding calendar year for the following categories of insurance:

(a) Casualty;
(b) Automobile;
(c) Inland marine;
(d) Fire and allied perils;
(e) Health; and
(f) Life.

(9) Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Such interest payable to the city, county, or urban-county government is separate of penalties provided for in subsection (7) of this section. No city, county, or urban-county government may impose any penalties other than those provided for in this subsection.

(10) No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employees under KRS 18A.225.

(11) No county may impose the tax authorized by this section upon the premiums received on policies issued to public service companies which pay ad valorem taxes.

(12) (a) ***Subject to the provisions of a tax base coordination agreement adopted in accordance with the provisions of Sections 1 to 11 of this Act,*** insurance companies which pay license fees or taxes pursuant to this section shall credit city license fees or taxes against the same license fees or taxes levied by the county, when the license fees or taxes are levied by the county on or after July 13, 1990.

(b) If a county imposed and collected the license fee or tax authorized by this section before July 1, 2000, then insurance companies that pay license fees or taxes under this section shall not credit against the county license fee or tax that portion of a city license fee or tax that becomes effective for the first time on or after July 1, 2000, or is increased effective on or after July 1, 2000. The provisions of this paragraph shall expire on ***June 30, 2002, in counties containing a city of the first class, urban-counties, charter counties, consolidated local governments, and counties with a population of less than thirty thousand (30,000) as shown by the 2000 decennial census by the United States Bureau of the Census, and shall expire in all other counties on*** June 30, ***2003*** [~~2002, unless extended by the General Assembly~~].

(13) No license fee or tax imposed under this section shall apply to premiums received on health insurance policies issued to individuals nor to policies issued through Kentucky Access created in KRS 304.17B-005.

Representative Hoffman moved that the House concur in the Senate Committee Substitute to **HB 314**.

Speaker Richards resumed the Chair.

Representative Lindsay moved that **HB 314**, be laid on the Clerk's Desk.

Representative Lindsay moved that the motion to lay **HB 314**, on the Clerk's Desk be withdrawn. Agreed.

Representative Hoffman moved that the House concur in the Senate Committee Substitute to **HB 314**.

On the roll call the vote was: **Yeas 10, Nays 83**. (See March 12, 2002, roll call on **HB 314** - Appendix.)

The motion that the House concur in the Senate Committee Substitute to **HB 314**, was rejected.

HB 32, with Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non concurrence in Senate Amendments. Agreed.

The Senate Floor Amendment No. 1 to **HB 32** is as follows:

On page 12, after line 25, by adding the following new section:

"Section 11. KRS 117.045 is amended to read as follows:

(1) The county board of elections shall in the manner prescribed by this section, not later than March 20 each year, except in a year in which no primary and regular elections are scheduled, appoint for each precinct in the county two (2) judges, one (1) clerk and one (1) sheriff of election. They shall serve in all elections held in the county during the year[~~, except as provided in KRS Chapter 242~~]. If a special election is ordered to be held in a year in which no elections are scheduled, the county executive committee of each political party in each county in the territory affected by the special election shall, not later than twenty-eight (28) days preceding the date of the special election, submit a written list of nominees for precinct election officers to serve in the special election in a manner consistent with the provisions of subsection (2) of this section. The county board of elections in each county in the territory affected by the special election shall, not later than twenty-one (21) days preceding the date of the special election, appoint precinct election officers to serve in the special election in a manner consistent with the provisions of subsections (4), (5), and (6) of this section. The State Board of Elections shall promulgate an administrative regulation establishing evaluation procedures which county boards of elections may use to qualify persons nominated to serve as precinct election officers.

(2) The county executive committees of the two (2) political parties having representation on the State Board of Elections may, on or before March 15 each year, designate in writing to the county board of elections a list of not less than four (4) names for each precinct; except that, in any precinct where there are not as many as four (4) persons possessing the qualifications of an election officer belonging to the political party filing the list, a lesser number may be designated. If there are two (2) or more contending executive committees of the same party in any county, the one (1) recognized by the written certificate of the chairman of the state central committee of the party shall be the one (1) authorized to submit the lists. The lists shall contain the full name, address, phone number, and Social Security number, if available, of each person listed. The lists shall be accompanied by a signed statement from each person stating that he is willing to serve, has not failed to serve without excuse in the past, and has not been convicted of an election law offense or any felony, unless the person's civil rights have been restored by the Governor. The State Board of Elections shall prescribe by administrative regulation the form of the list.

(3) The Attorney General shall notify each party state central committee of the duties of the party.

(4) If lists are submitted, the county board of elections shall select one (1) judge at each voting place from each political party's list, and the county board shall select the sheriff from one (1) political party's list and the clerk from the other. If no lists are submitted, the two (2) members of the county board of elections who are appointed by the State Board of Elections may submit lists; and the county board shall select the sheriff and one (1) judge from one (1) list and the clerk and the other judge from the remaining list. If no lists are submitted, the county board shall select the sheriff and one (1) judge from the membership of one (1) party and the clerk and the other judge from the membership of the remaining party. The county board shall, when possible, also appoint an adequate number of alternate precinct election officers from names on the lists which were submitted but which were not selected by the county board as precinct election officers. If alternate precinct election officers are not appointed from the lists of nominees who were not selected as precinct election officers, the county board of elections shall submit its method of selecting alternate precinct election officers to the State Board of Elections for its approval.

(5) If, after all reasonable efforts have been made, the county board of elections is unable to find two (2) qualified officers for each precinct who are affiliated with the two (2) political parties having representation on the State Board of Elections, the county board shall submit a list of emergency election officer appointments to the State Board of Elections. The county board shall also present, in writing, its efforts to recruit and appoint election officers as prescribed in subsection (4) of this section. The list of emergency appointments may include qualified voters not affiliated with the two (2) parties represented on the state board. The state board, after its review, may approve any or all of the emergency appointments submitted by the county board or may direct the county board to take other action. Any emergency appointment shall be made for the next ensuing election only.

(6) In addition to precinct election officers appointed under subsection (1) of this section, a county board of elections may appoint up to two (2) additional precinct election officers per precinct with the approval of the State Board of Elections. The state board shall promulgate an administrative regulation establishing conditions under which additional precinct officers may be approved.

(7) The county board of elections shall, within ten (10) days before the next ensuing election, give each election officer written notice of his appointment. The board may direct the sheriff of the county to serve the notice of appointment, if it deems the action is necessary.

(8) The State Board of Elections may require the county board of elections to submit its list of precinct officers for review. The State Board of Elections may, after a hearing, direct the removal of any election officer who the board finds would not fairly administer the state election laws. The state board shall replace any officer so removed. The board shall provide for

the method and manner of the hearing by administrative regulation.

(9) An election officer shall be a qualified voter of the precinct; except that, where no qualified voter of the required political party is available within the precinct, the election officer shall be a qualified voter of the county. An election officer shall not be a candidate or the spouse, parent, brother, sister, or child of a candidate who is to be voted for at the election. An election officer shall not have changed his voter registration party affiliation for one (1) year prior to his appointment. An election officer may be removed, for cause, at any time up to five (5) days before an election. Vacancies shall be filled by the county board with alternate precinct election officers and the person appointed to fill the vacancy shall be of the same political party as the vacating officer, except for emergency appointments made as provided in subsection (5) of this section.

(10) If the county board of elections fails to appoint election officers, or if any officer is not present at the precinct at the time for commencing the election, or refuses to act, and if no alternate is available, the officer in attendance representing the political party of the absentee shall appoint a suitable person to act in his place for that election. If both representatives of the same political party are absent, qualified voters present affiliating with that party shall elect, viva voce, suitable persons to act in their places.

(11) Each election officer shall be paid a minimum of sixty dollars ($60) per election day served, and such an additional amount as compensation as may be determined by the county board of elections, with the approval of the governing body which would be responsible for funding the election officers' pay, for each election in which the election officer serves, to be paid by the county. For delivering the election packets to the polls, the precinct election officers shall receive in addition the mileage reimbursement provided for state employees, for each mile necessarily traveled in the delivery of the packets to the polls, or a flat fee if the fee equals or exceeds that amount. For delivering election returns, the precinct election judges shall receive in addition the mileage reimbursement provided for state employees for each mile necessarily traveled from the place of voting to and from the place of delivery, or a flat fee if the fee equals or exceeds that amount. The fee paid to the precinct election judges for delivering election returns shall be paid by the county."

Representative A. Arnold moved that the House concur in Senate Floor Amendment No. 1 to **HB 32**. Agreed.

The Senate Floor Amendment No. 2 to **HB 32** is as follows:

On page 12, after line 25, by adding the following new section:

"Section 11. KRS 117.085 is amended to read as follows:

(1) All requests for an application for an absentee ballot may be transmitted by telephone, facsimile machine, by mail, or in person. Except as provided in paragraph (b) of this subsection, all applications for an absentee ballot shall be transmitted only by mail or in person at the option of the voter, except that the county clerk shall hand an application for an absentee ballot to a voter permitted to vote by absentee ballot who appears in person to request the application, or shall mail the application to a voter permitted to vote by absentee ballot who requests the application by telephone, facsimile machine, or mail. The absentee ballot application shall be restricted to the use of the voter or the spouse, parents, or children of the voter. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, and those who are incarcerated in jail but have yet to be convicted and persons who qualify under subparagraph 5. of paragraph (a) of this subsection, no absentee ballots shall be mailed to a voter who resides within the county in which he is registered. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for an absentee ballot as provided in this section and who is properly registered as stated in his application.

(a) The following voters may apply to cast their votes by absentee ballot at any time not later than the close of business hours seven (7) days before the election:

1. Voters permitted to vote by absentee ballot pursuant to KRS 117.075;
2. Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas;
3. Students who temporarily reside outside the county of their residence and other voters who temporarily reside outside the state but who are still eligible to vote in this state;
4. Persons who are incarcerated in jail who have been charged with a crime but have not been convicted of the crime; and
5. Persons who are prevented from voting in person at the polls on election day and from casting an absentee ballot in person in the county clerk's office on all days absentee voting is conducted prior to election day because their employment location requires them to be absent from the county all hours and all days absentee voting is conducted in the county clerk's office.

(b) Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and overseas citizens, may apply for an absentee ballot by means of the federal post-card application, which may be transmitted to the county clerk's office by mail or by facsimile machine. The application may be used to register, reregister, and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to the application form upon receipt.

(c) Any other qualified voter in the county who is not permitted to vote by absentee ballot under paragraph (a) of subsection (1) of this section who shall be absent from the county on any election day may, at any time during normal business hours on at least any of the twelve (12) working days before the election, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election prescribed above.

(d) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he is registered, and any alternate precinct election officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. If an alternate precinct election officer or a precinct election officer appointed to serve in a precinct other than that in which he is registered receives his appointment while absentee voting is being conducted in the county, such officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. In case of such voters, the verification of appointment shall also contain the date of appointment. The applications shall be restricted to the use of the voter only.

(e) Any pregnant woman who is in her last trimester of pregnancy at the time she wishes to vote under this paragraph may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections. She may vote at any time during business hours on at least any of the twelve (12) working days before the election up to the close of business hours on the day before the election. The application form for those persons shall be prescribed by the State Board of Elections, which shall contain the woman's sworn statement that she is in fact in her last trimester of pregnancy at the time she wishes to vote, and shall be made in person to the county clerk, at any time during any of the twelve (12) working days before the election. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election as prescribed above.

(f) The members of the county board of elections or their designees who provide equal representation of both political parties may serve as precinct election officers, without compensation, for all absentee voting performed on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. If the members of the county board of elections or their designees serve as precinct election officers for the absentee voting, they shall perform the same duties and exercise the same authority as precinct election officers who serve on the day of an election. If the members of the county board of elections or their designees do not serve as precinct election officers for the absentee voting, the county clerk or deputy county clerks shall supervise the absentee voting.

(g) Any individual qualified to appoint challengers for the day of an election may also appoint challengers to observe all absentee voting performed at the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and those challengers may exercise the same privileges as challengers appointed for observing voting on the day of an election at a regular polling place.

(h) Residents of Kentucky who are members of the Armed Forces confined to a military base on election day and learn of that confinement within seven (7) days or less of an election and are not eligible for a paper absentee ballot under subsection (1) of this section may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.

(2) The clerk shall type the name of the voter permitted to vote by absentee ballot on the application form for that person's use and no other. The absentee ballot application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of the reason the person cannot vote in person on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in the precinct, and the voter's mailing address for an absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.

(3) If the county clerk finds that the voter is properly registered as stated in his application and qualifies to receive an absentee ballot by mail, he shall mail to the voter an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ballots are mailed. An absentee ballot may be transmitted by facsimile machine to a resident of Kentucky who is a member of the Armed Forces, a dependent of a member of the Armed Forces, or a citizen residing overseas.

(4) Absentee ballots which are requested prior to the printing of the ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of the printed ballots; and absentee ballots which are requested subsequent to the receipt of the ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of the request.

(5) The clerk shall cause ballots to be printed fifty (50) days prior to each primary or general election and fifteen (15) days prior to each runoff primary.

(6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address, and precinct number. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number, and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.

(7) Any person who has received an absentee ballot by mail but who knows at least seven (7) days before the date of the election that he will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his absentee ballot and vote in person. He shall return his absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, and the voter may vote in the precinct in which he is properly registered."

Representative A. Arnold moved that the House concur in Senate Floor Amendment No. 2 to **HB 32**. Agreed.

Representative A. Arnold moved that **HB 32**, as amended, by the Senate, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 12, 2002, roll call on **HB 32** - Appendix.)

HB 32, as amended, by the Senate, was passed and the title agreed to.

Representative A. Arnold moved that the vote by which **HB 32**, as amended, by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications (Continued)

Representative Upchurch moved the adoption of the following **Legislative Citation No. 85**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Mark Stapleton upon his 43rd Birthday. In celebration of this memorable event, the entire membership joins with Representative Ken Upchurch in commending this remarkable member of the thin gray line, with emphasis on the thinning and graying, on this auspicious day. This distinguished body hereby extends best wishes to this esteemed member of the Kentucky State Police as he rapidly approaches the day when his AARP membership and senior citizen discounts kick in and as he celebrates his birthday. Done in Frankfort, Kentucky, this twelfth day of March, in the year two thousand and two.

Legislative Citation No. 85 was adopted without objection.

Representative Stumbo moved that **HB 709** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved to suspend the rules to waive the posting requirement on the following: **HB 435, HB 580, SB 38, SB 187, HB 584, SB 211,** and **HCR 226**. Agreed.

Representative Stumbo moved that the rules be suspended for the introduction of new bills and resolutions and for a Report of Committees. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 232, by Representative Nesler: A RESOLUTION adjourning the House of Representatives in loving memory and honor of William C. Dillon, Sr.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Education: **SB 211**

Local Government: **HB 838**

Transportation: **HB 867, HCR 161, HJR 181, HJR 212, SB 36**

Report of Committees (Continued)

The Committee on Appropriations and Revenue reported **HB 211, HB 243,** with Committee Substitute and Committee Amendment attached thereto, **HB 391,** with Committee Substitute and Committee Amendment attached thereto, and **HB 444,** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Reported to the committee on Rules.

The Committee Substitute to **HB 243** is as follows:

HB 243, AN ACT relating to property tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.820 is amended to read as follows:

(1) The cabinet shall value and assess unmined coal, oil, and gas reserves, and any other mineral or energy resources which are owned, leased, or otherwise controlled separately from the surface real property at no more than fair market value in place, considering all relevant circumstances. Unmined coal, oil, and gas reserves and other mineral or energy resources shall in all cases be valued and assessed by the Revenue Cabinet as a distinct interest in real property, separate and apart from the surface real estate *unless:*

(a) The unmined coal, oil and gas reserves, and other mineral or energy resources are owned in their entirety by the surface owner;

(b) The surface owner is neither engaged in the severance, extraction, processing, or leasing of mineral or other energy resources nor is he an affiliate of a person who engages in those activities; and

(c) The surface is being used by the surface owner primarily for the purpose of raising for sale agricultural crops, including planted and managed timberland, or livestock or poultry.

For purposes of this section, "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another individual, partnership, committee, association, corporation, or any other organization or group of persons.

(2) Each owner or lessee of property assessed under subsection (1) of this section shall annually, between January 1 and April 15, file a return with the cabinet in a form as the cabinet may prescribe. Other individuals or corporations having knowledge of the property defined in subsection (1) of this section gained through contracting, extracting, or similar means may also be required by the cabinet to file a return.

(3) Any property subject to assessment by the cabinet under subsection (1) of this section which has not been listed for taxation, for any year in which it is taxable, by April 15 of that year shall be omitted property.

(4) After the valuation of unmined minerals or other energy sources has been finally fixed by the cabinet, the cabinet shall certify to the county clerk of each county the amount liable for county, city, or district taxation. The report shall be filed by the county clerk in his office, and shall be certified by the county clerk to the proper collecting officer of the county, city, or taxing district for collection.

(5) The notification, protest, and appeal of assessments under subsection (1) of this section shall be made pursuant to the provisions of KRS Chapter 131.

(6) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

(7) The collection of tax bills generated from the assessments made under subsection (1) of this section shall be made pursuant to the provisions of KRS Chapter 134.

Section 2. The amendments contained in this Act shall apply to tax assessments made on or after January 1, 2003.

The Committee Amendment No. 1 Title to **HB 243** is as follows:

Amend title to read as follows: "AN ACT relating to revenue and taxation."

The Committee Amendment No. 1 to the Committee Substitute to **HB 391** is as follows:

On page 20, line 4, after "coverage", delete all new text through line 7;
On page 43, line 14, delete "***thirty-five percent (35%)***" and insert "***fifty percent (50%)***" in lieu thereof; and
On page 47, lines 4 and 5, delete "***thirty-five percent (35%)***" and insert "***fifty percent (50%)***" in lieu thereof

The Committee Substitute to **HB 444** is as follows:

HB 444, AN ACT relating to capital projects.

WHEREAS, the General Assembly finds and determines that protecting prior and future investments of public funds in state-owned facilities through planned major maintenance and capital repair of these facilities is of critical importance to the Commonwealth of Kentucky; and

WHEREAS, the General Assembly further recognizes that arresting deterioration of existing state-owned facilities, limiting the effects of cost inflation associated with the deferral of necessary maintenance and repair, and assuring that facilities comply with necessary health and safety requirements require a proactive policy to protect the public investment; and

WHEREAS, the Capital Planning Advisory Board of the General Assembly has consistently recommended that adequate maintenance of our state-owned facilities should be the Commonwealth's highest capital-related priority; and

WHEREAS, it is the goal of the General Assembly to ensure that the Commonwealth provides appropriate mechanisms for identifying needs and for financing the maintenance and capital repair of state-owned facilities;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Legislative Research Commission shall establish a State Facilities Maintenance and Renewal Task Force to conduct a study relating to the establishment of maintenance and capital renewal programs for state facilities.

Section 2. The task force shall be composed of eleven (11) members, one (1) of whom shall be the Chair of the Capital Planning Advisory Board, and one (1) of whom shall be the Chair of the Capital Projects and Bond Oversight Committee. The task force shall include the Senate and House Co-Chairs, or their designees, from the membership of the following committees: the Appropriations and Revenue Committee and the State Government Committee. The task force shall have legislative co-chairs, one (1) of whom shall be appointed by the President of the Senate from the Senate members on the task force, and one (1) of whom shall be appointed by the Speaker of the House from the House members on the task force.

The task force shall include the Commissioner of the Department for Facilities Management, the State Budget Director, and the Vice President for Finance of the Council on Postsecondary Education, or their designees. The task force shall also include two (2) representatives of state agencies, other than the Department for Facilities Management, who are responsible for management of state facilities; one (1) of whom shall be appointed by the President of the Senate and one (1) by the Speaker of the House by August 1, 2002. The Commissioner of Facilities Management shall submit a list of five (5) state employees with expertise in facilities management from which these appointments shall be made.

Section 3. The State Facilities Maintenance and Renewal Task Force shall review the information available regarding the inventory of state facilities, the condition of those facilities, and proposed projects to address the maintenance and renewal of those facilities including any backlog of unmet needs. It shall review the methods currently used in Kentucky to finance the maintenance and renewal of state facilities as well as the methods used by other states and in the private sector.

Section 4. The task force shall report its findings and recommendations to the Legislative Research Commission for distribution to the appropriate legislative committees, including the Capital Planning Advisory Board, by November 30, 2002.

Section 5. Provisions of this Act to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Appropriations and Revenue reported **HB 707**, with Committee Amendment attached thereto, **HB 812, SB 59, SB 133, SB 138,** with Committee Substitute attached thereto, and **SB 178** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 707, AN ACT authorizing the payment of certain claims against the state which have been duly audited and approved according to law, and have not been paid because of lapsing or insufficiency of former appropriations against which claims were chargeable, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. (1) There is appropriated out of the general fund in the State Treasury for the purpose of compensating persons and companies named below for claims which have been duly audited and approved according to law, but have not been paid because of lapsing or insufficiency of former appropriations against which the claims were chargeable, the amounts listed below:

1.	Community and Employment Opportunities P.O. Box 806 Cynthiana, Kentucky 41031	$4,481.35
2.	The Albertson Network P.O. Box 960645 Cincinnati, Ohio 45296-0645	$1,278.11
3.	Deters, Benzinger and LaVelle, P.S.C. 2701 Turkeyfoot Road Covington, Kentucky 41017	$6,187.51
4.	Horticultural Printers P.O. Box 890229 Dallas, Texas 75389-0229	$882.63
5.	Ad Color, Inc. 620 Adcolor Drive Lexington, Kentucky 40511	$330.71
6.	Welch Printing Company 350 Boxley Avenue Louisville, Kentucky 40209-1849	$71.01
7.	Georgetown Printing, Inc. 163 East Main Street Georgetown, Kentucky 40324	$1,027.00
8.	Lawrenceburg Printing, Inc. 248 Court Street Lawrenceburg, Kentucky 40342	$176.00
9.	Stoll, Keenon, and Park, L.L.P. 201 East Main Street, Suite 1000 Lexington, Kentucky 40507-1380	$407.50
10.	Lawrenceburg Printing, Inc. 248 Court Street Lawrenceburg, Kentucky 40342	$190.00
11.	Griffin and Strong, P.C. c/o Action Capital P.O. Box 56346 Atlanta, Georgia 30343	$4,111.80
12.	Jefferson Community College 109 East Broadway Louisville, Kentucky 40202	$6,000.00
13.	The Daily News P.O. Box 90012 Bowling Green, Kentucky 42102-9012	$178.90
14.	University Anesthesia Associates, P.S.C. P.O. Box 70122	$241.50

	Louisville, Kentucky 40270-0122	
15.	Jack H. Waff 1908 Lincoln Park Road Springfield, Kentucky 40069	$3,600.00
16.	Sturgill, Turner, Barker and Moloney, P.L.L.C. 155 East Main Street Lexington, Kentucky 40507	$300.80
17.	Reynolds and Reynolds c/o Lloyd and McDaniel, P.L.C. 462 South Fourth Street, Suite 1700 Louisville, Kentucky 40202-3450	$4,829.44
18.	Lynn Blue Print and Supply Company, Inc. 328 Old Vine Street Lexington, Kentucky 40507	$1,600.00
19.	Balfour P.O. Box 149207 Austin, Texas 78714-9207	$2,386.50
20.	John E. Lange III Lange, Quill and Powers, P.S.C. 4 West Fourth Street, Suite 400 Newport, Kentucky 41071-1084	$1,313.25
21.	Deters, Benzinger and LaVelle, P.S.C. 2701 Turkeyfoot Road Covington, Kentucky 41017	$2,663.03
22.	Jefferson County Treasurer Jefferson County Human Services 810 Barret Avenue, Room 204 Louisville, Kentucky 40204	$86,826.00
23.	Franklin County Fiscal Court 315 West Main Street Frankfort, Kentucky 40601	$1,740.00
24.	Ohio County Board of Education P.O. Box 70 Hartford, Connecticut 42347	$25,000.03
25.	Boyle County Board of Education 352 North Danville Bypass Danville, Kentucky 40423	$16,666.66
26.	Bullitt County Board of Education 1040 Highway 44 East Shepherdsville, Kentucky 40165	$14,608.83
27.	B and H Septic Tank Service, Inc. 5235 Cane Run Road Louisville, Kentucky 40216	$6,747.25
28.	Konica Business Technologies, Inc. 500 Day Hill Road Windsor, Connecticut 06095	$22,958.60
29.	Investors Heritage Printing, Inc. P.O. Box 717	$744.50

	Frankfort, Kentucky 40602-0717	
30.	Gannett Direct Marketing P.O. Box 34470 Louisville, Kentucky 40232-4470	$2,215.23
31.	Gateway Press, Inc. P.O. Box 32548 Louisville, Kentucky 40232-2548	$1,994.62
32.	Custom Data Processing, Inc. Attn. Jack H. Marston, President 1 West Harris Avenue La Grange, Illinois 60525	$89,555.00
33.	Southland Printing Company, Inc. 1079 Majaun Road Lexington, Kentucky 40511	$6,773.40
34.	T. Gerald O'Daniel, M.D. Aesthetic Plastic Surgery Institute 444 South First Street, #200 Louisville, Kentucky 40202	$5,600.00
35.	Calhoun's Garage, Inc. 2024 South Lake Drive Prestonsburg, Kentucky 41653	$49.35
36.	Cingular Wireless P.O. Box 70814 Charlotte, North Carolina 28272-0814	$47.50
37.	BellSouth P.O. Box 33009 Charlotte, North Carolina 28243-0001	$44.41
38.	Cingular Wireless P.O. Box 70812 Charlotte, North Carolina 28272-0812	$3,347.69
39.	BP Oil P.O. Box 9076 Des Moines, Iowa 50368-9076	$518.24
40.	Norton Suburban Hospital Department 94690 Louisville, Kentucky 40294-4690	$3,117.23
41.	Western Kentucky Education Cooperative Adult Education Consortium 338 Special Education Building Murray, Kentucky 42071	$2,128.00
42.	AJ and L Taxi 439 West First Street Morehead, Kentucky 40351	$750.00
43.	ASCR, Inc. 2700 Highway 280 East, Suite 270E Birmingham, Alabama 35223	$47,000.00
44.	Ashland Active Day 2700 Highway 280 East, Suite 270E	$11,456.28

	Birmingham, Alabama 35223	
45.	Ashland Child Development P.O. Box 2246 Ashland, Kentucky 41105	$139.01
46.	Bath Medical Transport P.O. Box 602 Morehead, Kentucky 40351	$5,400.00
47.	Caskey Cab 508 West Main Street Morehead, Kentucky 40351	$69.88
48.	Central Kentucky Community Action Agency P.O. Box 830 Lebanon, Kentucky 40033	$39,153.00
49.	Community Action of Southern Kentucky P.O. Box 90014 Bowling Green, Kentucky 42102	$6,386.20
50.	Community Cab P.O. Box 680 Morehead, Kentucky 40351	$2,135.45
51.	Elliott County Ambulance P.O. Box 361 Sandy Hook, Kentucky 41171	$1,306.52
52.	Green County Ambulance 205 East Hodgenville Avenue Greensburg, Kentucky 42743	$2,507.80
53.	Greenville Med-Van, Inc. 1740 Kennedy-Brashear Road Greenville, Kentucky 42345	$4,542.75
54.	H and H Taxi 201 West Fortune Street Columbia, Kentucky 42728	$14,324.00
55.	Healthcare Transport 131 Nahm Street Paducah, Kentucky 42001	$84,613.12
56.	Jordan's Taxi 1701 North Main Street Munfordville, Kentucky 42765	$6,053.05
57.	Life First P.O. Box 635 Lebanon, Kentucky 40033	$13,117.40
58.	Magoffin Specialty Carrier P.O. Box 482 Sandy Hook, Kentucky 41172	$6,500.00
59.	Medi Cab P.O. Box 541 West Liberty, Kentucky 41472	$11,000.00
60.	Morehead Rowan County EMS P.O. Box 842	$1,589.00

	Morehead, Kentucky 40351	
61.	Motor Carrier Solutions P.O. Box 550 Grayson, Kentucky 41143	$2,271.72
62.	Nelson County Mobile Med P.O. Box 863 Bardstown, Kentucky 40004	$3,047.90
63.	Phil Gregory Taxi 1203 Herndon Road Russellville, Kentucky 42276	$5,257.04
64.	Quicksilver Taxi Route 7, Box 20730 Louisa, Kentucky 41230	$7,000.00
65.	Rick Lewis Taxi 367 Lafayette Street Brandenburg, Kentucky 40108	$8,664.50
66.	Warren Harding Van Service 980 Fort Avenue Vine Grove, Kentucky 40175	$1,610.30
67.	Yellow Cab of Ashland 1945 Greenup Avenue Morehead, Kentucky 40351	$11,909.10
68.	Patricia Adkins 5469 Highway 7 West Liberty, Kentucky 41472	$48.00
69.	Cheryl Murdock 14963 Leitchfield Road Eastview, Kentucky 42732	$69.00
70.	Lillian Nickell 4981 Highway 772 West Liberty, Kentucky 41472	$153.60
71.	Johnda Weaver Route 2, Box 175B Wallingford, Kentucky 41093	$243.00
72.	Jim Bradley University of Louisville Research Foundation, Inc. Office of the Controller - Belknap Campus Louisville, Kentucky 40292	$5,000.00

(2) The claims listed below are for the payment of State Treasury checks payable to the persons or personal representatives, and the firms listed, but not presented for payment within a period of five (5) years from the date of issuance of the checks as required by KRS 41.370 and 413.120.

		Payee	Treasury Fee	Total Check
1.	Check #T3,336,523 dated January 8, 1986	$506.00	$25.00	$481.00
	Check #T7,685,488 dated August 9, 1990	$645.00	$25.00	$620.00

The Estate of L.C. McCloud
c/o Paul R. Paletti, Jr.
455 South Fourth Avenue, Suite 1551

	Louisville, Kentucky 40202 (totals)	$1,151.00	$50.00	$1,101.00
2.	Check #T5,429,923 dated April 14, 1988 Phyllis A. Bechtold 1937 Mount Vernon Drive Covington, Kentucky 41011-3678	$196.08	$25.00	$171.08
3.	Check #G6,374,881 dated February 11, 1991 Spencer County Health Department c/o Susan Hathorn Kentucky Revenue Cabinet Frankfort, Kentucky 40620	$91.42	$25.00	$66.42
4.	Check #E0,510,458 dated December 19, 1991 Kathleen Adams 3504 Lindenwood Drive Erlanger, Kentucky 41018	$67.00	$25.00	$42.00
5.	Check #T9585921 dated July 2, 1992 Catherine Sagraves and Estate of Charles F. Canupp 1012 Arlington Drive Paris, Kentucky 40361	$164.76	$25.00	$139.76
6.	Check #P0707384 dated March 8, 1993 Marilyn S. Hogan c/o Pat Wilson 500 Mero Street, Room 932 Frankfort, Kentucky 40601	$484.11	$25.00	$459.11
7.	Check #L0381393 dated December 17, 1993 Judy K. Alvey 8208 Third Street Road Louisville, Kentucky 40214	$211.38	$25.00	$186.38
8.	Check #P1337808 dated December 20, 1993 Allen B. Houchin 2721 Smallhouse Road Bowling Green, Kentucky 42104	$1,009.88	$25.00	$984.88
9.	Check #P1351603 dated December 20, 1993 Kenneth Travis 754 Old Dover Road Cadiz, Kentucky 42211	$1,055.17	$25.00	$1,030.17
10.	Check #P1781209 dated July 8, 1994 Patricia N. McDowell 71 Dowell Street Campbellsville, Kentucky 42718	$347.08	$25.00	$322.08

11.	Check #G0777732 dated August 15, 1994 Owensboro Marina 4068 East Fourth Street Owensboro, Kentucky 42303	$105.73	$25.00	$80.73
12.	Check #G0805969 dated August 25, 1994 Sara Bell 109 South Creek Street Frankfort, Kentucky 40601	$194.94	$25.00	$169.94
13.	Check #T2120779 dated April 25, 1995 Paul R. Patton 1651 Old Highway 158, Apartment 106 Belleville, Illinois 62221	$257.00	$25.00	$232.00
14.	Check #T2429417 dated June 5, 1995 Freddie L. and Bessie Donald 668 Madelon Court Louisville, Kentucky 40211-2939	$68.00	$25.00	$43.00
15.	Check #BT0025924 dated September 29, 1995 Catenary Coal Holdings c/o Alice Gaviola CityPlace One, Suite 300 St. Louis, Missouri 63141	$1,096.74	$25.00	$1,071.74
16.	Check #BT0026620 dated October 27, 1995 Estate of William Bruce Isaacs c/o C. William Swinford 271 West Short Street, Suite 505 Lexington, Kentucky 40507-1369	$1,877.93	$25.00	$1,852.93
17.	Check # G2063387 dated February 13, 1996 Estate of Shirley L. Craig c/o Larry D. Craig II 150 Frederica Street Hartford, Kentucky 42347	$103.00	$25.00	$78.00
18.	Check #E1114483 dated April 10, 1996 Lawrence W. Miller 2439 Williams Avenue Cincinnati, Ohio 45212	$300.00	$25.00	$275.00
19.	Check #T3313234 dated April 25, 1996 Jeremy J. Thome 3411 East Indian Trail Louisville, Kentucky 40213	$157.00	$25.00	$132.00

Section 2. The Finance and Administration Cabinet and the State Treasurer are authorized to pay the following listed claims from the following funds:

(1) The Kentucky Retirement Systems is authorized to make payment from their retirement fund for state treasury checks payable to the person or their personal representatives but not presented for payment within a period of five (5) years from the date of issuance of the checks the following sums:

1. Check #C0424262
dated October 7, 1994 $155.34 $25.00 $130.34
B.J. Shumate
2418 Lower Hunters Trace
Louisville, Kentucky 40216-1356

Section 3. Whereas the persons and companies named above have furnished in good faith the services, supplies, and materials enumerated, and the Commonwealth has received the same, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Amendment No. 1 to **HB 707** is as follows:

On page 4, line 5, by deleting "Connecticut" and inserting in lieu thereof "Kentucky"; and

On page 9, line 2, by deleting "Morehead" and inserting in lieu thereof " Ashland" and by deleting "40351" and inserting in lieu thereof "41101".

HB 812, AN ACT relating to property tax collections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.021 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, a county clerk shall not issue a replacement plate, decal, or registration certificate as provided in KRS 186.180, or a registration for renewal to any person who on January 1 of any year owned a motor vehicle on which state, county, city, urban-county government, school, or special taxing district ad valorem taxes are delinquent.

(2) Pursuant to KRS 134.810(4), the owner ***as defined in KRS 186.010(7)(a) and (c)***[~~of record~~] on January 1 of any year shall be liable for taxes due on a motor vehicle. A person other than the owner of record who applies to a county clerk to transfer the registration of a motor vehicle may pay any delinquent ad valorem taxes due on the motor vehicle to facilitate the county clerk's transferring registration of the motor vehicle. The person applying shall not be required to pay delinquent ad valorem taxes due on any other motor vehicle owned by the owner of record from which he is purchasing his motor vehicle as a condition of registration.

(3) A county clerk shall not issue a replacement plate, decal, or registration certificate as provided in KRS 186.180, or a registration renewal for any motor vehicle that is not insured in compliance with KRS 304.39-080. Each applicant for registration renewal shall present proof of compliance to the county clerk in a manner prescribed in administrative regulations issued by the Department of Insurance.

Section 2. KRS 134.805 is amended to read as follows:

(1) The county clerk shall be allowed by the Revenue Cabinet, for collecting state ad valorem taxes on motor vehicles, a commission of four percent (4%) on state taxes collected.

(2) The county clerk shall be allowed by the county treasurer, for collecting county and special district ad valorem taxes on motor vehicles, a commission of four percent (4%) on county and special taxes collected.

(3) The county clerk shall be allowed a commission of four percent (4%) of the school district taxes collected.

(4) Effective January 1, 1985, the county clerk shall be allowed a commission of four percent (4%) of the city or urban-county government taxes collected.

(5) (a) For the convenience and benefit of the Commonwealth's citizens and to maximize ad valorem tax collections, county clerks shall be responsible for causing the preparation and mailing of a notice of ad valorem taxes due to the January 1 owner***, as defined in KRS 186.010(7)(a) and (c),***[~~of record~~] of each motor vehicle no later than ***forty-five (45) days***[~~one (1) month~~] prior to the ad valorem tax and registration renewal due date in each calendar year.

(b) When a vehicle is transferred in any year before the ad valorem taxes on that vehicle have been paid, a notice of taxes due shall be sent within ten (10) working days after the date of transfer or notice of transfer to the owner[~~ of record~~] as of January 1 of that year.

(c) When ad valorem taxes on a vehicle become delinquent for sixty (60) days, as defined by KRS 134.810, a second notice shall be sent within ten (10) working days to the January 1 owner of record. The notice shall inform the delinquent owner of the lien provisions provided by KRS 134.810 on all vehicles owned or acquired by the owner of the vehicle at the time the tax liability arose.

(d) These notices shall be calculated, prepared, and mailed first class on behalf of county clerks by the AVIS. Nonreceipt of the notices required herein shall not constitute any defense against applicable penalty, interest, lien fees, or costs recovery.

Section 3. KRS 134.810 is amended to read as follows:

(1) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes shall be due and payable on or before the earlier of the last day of the month in which registration renewal is required by law for a motor vehicle renewed or the last day of the month in which a vehicle is transferred.

(2) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the earlier of the end of the month in which registration renewal is required by law or the last day of the second calendar month following the month in which a vehicle was transferred.

(3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due. However, this penalty shall be waived if the tax bill is paid within five (5) days of the tax bill being declared delinquent. Any taxes which are not paid within thirty (30) days of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on said taxes and penalty from the date of delinquency. A penalty or interest shall not accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.

(4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the owner ***pursuant to KRS 186.010(7)(a) and (c)***[~~of record~~] on January 1 of any year shall be liable for the taxes on the motor vehicle, except as hereinafter provided.

(5) If an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, city, urban-county government, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration shall be due and payable on or before the last day of the first birth month following the assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.

(6) For purposes of the state ad valorem tax only, all motor vehicles held for sale by a licensed Kentucky dealer and all motor vehicles with a salvage title held by an insurance company on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS 132.485 but shall be subject to ad valorem tax as goods held for sale in the regular course of business under the provisions of KRS 132.020(10) and 132.220.

(7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor vehicle becomes delinquent, the state and each county, city, urban-county government, or other taxing district shall have a lien on all motor vehicles owned or acquired by the person who owned the motor vehicle at the time the tax liability arose. A lien for delinquent ad valorem taxes shall not attach to any motor vehicle transferred while the taxes are due on that vehicle. For the purpose of delinquent ad valorem taxes on leased vehicles only, a lien on a leased vehicle shall not be attached to another vehicle owned by the lessor.

(8) The lien required by subsection (7) of this section shall be filed and released by the automatic entry of appropriate information in the AVIS database. For the filing and release of each lien or set of liens arising from motor vehicle ad valorem property tax delinquency, a fee of one dollar ($1) shall be added to the delinquent tax account. The fee shall be collected and retained by the county clerk who collects the delinquent tax.

(9) The implementation of the automated lien system provided in this section shall not affect the manner in which commercial liens are recorded or released.

Section 4. The amendments contained in this Act shall apply for tax assessments made on or after January 1, 2003.

SB 59, AN ACT relating to peace officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.365 is amended to read as follows:

The following persons who are employed by the federal government as law enforcement or investigative officers who have the power of arrest and who are residents of the Commonwealth of Kentucky shall be deemed peace officers and shall have the same powers and duties of any other peace officer in the Commonwealth, except that they shall not be required to serve process unless permitted to do so by their respective agencies:

(1) Federal Bureau of Investigation special agents;

(2) United States Secret Service special agents;

(3) United States Marshal's service deputies;

(4) Drug Enforcement Administration special agents;

(5) Bureau of Alcohol, Tobacco, and Firearms special agents;

(6) United States Forest Service special agents and law enforcement officers;

(7) Special agents and law enforcement officers of the Office of the Inspector General of the United States Department of Agriculture*; and*

(8) United States Customs Service special agents.

SB 133, AN ACT relating to the collection of delinquent child support obligations by the Revenue Cabinet.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.130 is amended to read as follows:

Without limitation of other duties assigned to it by law, the following powers and duties are vested in the Revenue Cabinet:

(1) The cabinet may make administrative regulations, and direct proceedings and actions, for the administration and enforcement of all tax laws of this state.

(2) The cabinet, by representatives appointed by it in writing, may take testimony or depositions, and may examine the records, documents, files, and equipment of any taxpayer or of any person whose records, documents, or equipment will furnish knowledge concerning the tax liability of any taxpayer, when it deems this reasonably necessary for purposes incident to the performance of its functions. The cabinet may enforce this right by application to the Circuit Court in the county wherein the person is domiciled or has his principal office, or by application to the Franklin Circuit Court, which courts may compel compliance with the orders of the cabinet.

(3) The cabinet shall prescribe the style, and determine and enforce the use or manner of keeping, of all assessment and tax forms and records employed by state and county officials, and may prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation pursuant to KRS Chapter 13A incorporating the forms by reference.

(4) The cabinet shall advise on all questions respecting the construction of state revenue laws and the application thereof to various classes of taxpayers and property.

(5) Attorneys employed by the cabinet and approved by the Attorney General as provided in KRS 15.020 may prosecute all violations of the criminal and penal laws relating to revenue and taxation. If a Revenue Cabinet attorney undertakes any of the actions prescribed in this subsection, he shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including, but not limited to, the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

(6) In the event of the incapacity of attorneys employed by the cabinet or at the request of the secretary of the Revenue Cabinet, the Attorney General or his designee shall prosecute all violations of the criminal and penal laws relating to revenue and taxation. If the Attorney General undertakes any of the actions prescribed in this subsection, he shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including, but not limited to, the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

(7) The cabinet may require the Commonwealth's attorneys and county attorneys to prosecute actions and proceedings and perform other services incident to the enforcement of laws assigned to the cabinet for administration.

(8) The cabinet may conduct research in the fields of taxation, finance, and local government administration, and publish its findings, as the secretary may deem wise.

(9) The cabinet may make administrative regulations necessary to establish a system of taxpayer identifying numbers for the purpose of securing proper identification of taxpayers subject to any tax laws or other revenue measure of this state, and may require such taxpayer to place on any return, report, statement, or other document required to be filed, any number assigned pursuant to such administrative regulations.

(10) The cabinet may, when it is in the best interest of the Commonwealth and helpful to the efficient and effective enforcement, administration, or collection of sales and use tax, motor fuels tax, or the petroleum environmental assurance fee, enter into agreements with out-of-state retailers or other persons for the collection and remittance of sales and use tax, the motor fuels tax, or the petroleum environmental assurance fee.

(11) The cabinet may enter into annual memoranda of agreement with the Cabinet for Families and Children to assume the collection duties for support obligations and may renew that agreement for up to five (5) years. Under such an agreement, the cabinet shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of support obligations as provided under:

(a) KRS Chapters 131, 134, and 135 for the collection, refund, and administration of delinquent taxes; and

(b) KRS Chapters 205 and 405 for the collection, refund, and administration of support obligations by the Cabinet for Families and Children.

SB 138, AN ACT relating to property tax and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.450 is amended to read as follows:

(1) The sheriff shall sell all tax claims for which payment by the delinquent taxpayer has not been made by the closing date for the acceptance by the sheriff of offers to purchase delinquent tax claims. If there is more than one (1) willing purchaser who has made an offer, the one having made the most recent purchase of a tax claim against the same delinquent or the same property shall have preference; if there is no such person, the person being the first, in the judgment of the sheriff, to offer to pay cash in the full amount of the tax claim shall receive priority for the purchase of the tax claim. If the total of all offers to purchase exceeds ten percent (10%) of the total dollar amount of the delinquent bills offered for sale, or the sum of two hundred thousand dollars ($200,000), whichever is less, the sheriff shall notify the Finance and Administration Cabinet of the offers of purchase within five (5) business days of the closing date when the offers were received. Upon receipt of the notice, the Finance and Administration Cabinet shall purchase the delinquent tax bills upon which the sheriff has received an offer of purchase and shall tender payment to the sheriff within fifteen (15) business days of the receipt of the sheriff's notice. Upon purchase of the tax claims, the state shall be the owner of the tax bills and may contract with the county attorney to collect all amounts due on its behalf under the terms and conditions of the county attorney's contract with the Revenue Cabinet to collect delinquent taxes. If the county attorney has not contracted with the Revenue Cabinet to collect delinquent taxes, the Revenue Cabinet shall collect all amounts due on behalf of the Finance and Administration Cabinet. If the Finance and Administration Cabinet does not purchase all of the delinquent tax bills, within fifteen (15) days of the closing date, the sheriff shall complete the sale of those tax claims for which the sheriff has received responsible offers to purchase. When a sale is made the tax bill shall be known as a certificate of delinquency and the sheriff shall inscribe thereon the date of sale, the sale price, and the name and address of the purchaser, in the place and manner prescribed by the Revenue Cabinet, and the purchaser shall be entitled to a certified copy of the certificate of delinquency.

(2) If no responsible offer in the amount of the tax claim is received, the sheriff shall purchase it for the state, county, and taxing districts having an interest in the tax claim. In such case, the tax bill shall also be known as a certificate of delinquency, and the sheriff shall inscribe thereon the same information required when one other than the state, county, or taxing district is the purchaser.

(3) The sheriff shall file all certificates of delinquency in the county clerk's office immediately upon completion of the tax sale***, or in a county containing a city of the first class, within fourteen (14) working days of the sale,*** and the clerk shall retain them. The county clerk shall acknowledge receipt of the certificates by signing a receipt form that has been prepared in a manner prescribed by the Revenue Cabinet. If the sheriff fails to file the certificates, he shall be liable on his official bond for the aggregate amount of the certificates not returned, but the claim of the purchaser shall not be affected by this neglect. If the sheriff fails to return any certificate, the purchaser may file his certified copy with the clerk, with the same effect as the original.

(4) The clerk shall make, execute, and deliver a certified copy of a certificate of delinquency to the payor, or the clerk may provide for a certified electronic register of the certificates of delinquency in the clerk's record in lieu of delivering a certified copy of the certificate of delinquency.

(5) The certificate of delinquency is assignable by endorsement. The clerk shall note the assignment on the certificate of delinquency or the clerk may provide for a certified electronic certificate of delinquency in the clerk's records in lieu of delivering a certified copy of the certificate of delinquency. An assignment when noted on the record in the office of the county clerk vests in the assignee all rights and title of the original purchaser.

Section 2. KRS 134.500 is amended to read as follows:

(1) Uncollectible tax claims shall bear interest at twelve percent (12%) per annum simple interest from the date the certificate of delinquency is issued. A fraction of a month is counted as an entire month. The sheriff's add-on fee provided in KRS 134.430, the clerk's add-on fee provided in KRS 134.480, and the county attorney's add-on fee provided in this section shall be excluded from the interest calculation ***in any county that has by ordinance excluded all three (3) of these fees from interest***. All tax bills on omitted property that were not turned over to the sheriff in time to be collected or to make the sale provided for in KRS 134.430 and 134.440 shall also be submitted to the fiscal court but shall be carried over as a charge against the sheriff at the time he makes his next regular settlement.

(2) The cabinet shall be responsible for the collection of certificates of delinquency and delinquent personal property tax bills; however, the cabinet shall first offer the collection duties to the county attorney, unless the cabinet determines that the county attorney has previously failed to perform collection duties in a reasonable and acceptable manner. Any county attorney desiring to perform the duties associated with the collection of delinquent tax claims shall enter into a contract with the cabinet on an annual basis. The terms of the contract shall specify the duties to be undertaken by the county attorney. These duties shall include but are not limited to the following actions:

  (a) Within fifty (50) days after the issuance of a certificate of delinquency to the state, county, and taxing district, the county attorney or the Revenue Cabinet shall cause a notice of the purchase to be mailed by regular mail to the property owner at the address on the records of the property valuation administrator. The notice shall advise the owner that the certificate is a lien of record against all property of the owner, and bears interest at the rate of twelve percent (12%) per annum, and if not paid will be subject to collection by the county attorney as provided by law.

(b) The county attorney shall file in the office of the county clerk a list of the names and addresses to which the notice was mailed along with a certificate that the notice was mailed in accordance with the requirements of this section.

(c) All notices returned as undeliverable shall be submitted to the property valuation administrator. The property valuation administrator shall attempt to correct inadequate or erroneous addresses and, if property has been transferred, shall determine the new owner and the current mailing address. The property valuation administrator shall return the notices with the corrected information to the county attorney prior to the expiration of the one (1) year tolling period provided in KRS 134.470.

(d) Within ninety (90) days after the expiration of the one (1) year tolling period provided in KRS 134.470, the county attorney shall cause a notice of his intention to enforce the lien to be mailed to all owners whose tax bills remain delinquent. No second notice shall be required for addresses previously determined to be undeliverable and for which the property valuation administrator has not provided corrected information.

(e) Failure to mail the notices shall not affect the validity of the claim of the state, county, and taxing district. The postal cost of mailing the notices shall be added to the certificate of delinquency and, upon collection, the county attorney shall be reimbursed for the postage. The county attorney shall deliver at the same time a list of the owners whose tax bills remain delinquent to the property valuation administrator. The property valuation administrator shall review this list in accordance with the provisions of KRS 132.220 to establish that the properties on the list can be identified and physically located.

(3) The county attorney who enters into a contract with the cabinet shall have a period of two (2) years after the expiration of the one (1) year tolling period provided in KRS 134.470 to collect delinquent tax bills or to initiate court action for their collection. At the expiration of the two (2) years the cabinet may assume responsibility for all uncollected bills except those with pending court action.

(4) The county attorney who enters into a contract with the cabinet and performs his duties in respect to the certificate of delinquency and delinquent personal property tax bills shall be entitled to twenty percent (20%) of the amount due each taxing unit, whether the tax claim is voluntarily paid or is paid through sale or under court order, and the fee shall be paid to him by the county clerk when making distribution, as provided in KRS 134.480. This fee shall be added to the amount of the tax claims and paid by the persons paying the tax claims. They shall not be paid by the taxing districts or deducted from the taxes due the taxing districts. This fee shall be waived if the certificate of delinquency is paid by the taxpayer only within five (5) days of the sheriff's sale. If more than one (1) county attorney renders necessary services in an effort to collect a tax claim, the attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the fee. When the county attorney's office, in an effort to collect a certificate of delinquency, or delinquent personal property tax bills files a court action which is litigated by the taxpayer, an additional county's attorney fee equal to thirteen percent (13%) of the total tax plus ten percent (10%) penalty, may be added to the certificate or the bill and shall become part of the tax claim.

(5) If a county attorney chooses not to contract for these collection duties or if a county attorney fails to perform the duties required by the contract, the cabinet shall assume responsibility for the collection process. In the performance of those duties, the cabinet shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of the amount due on the certificate of delinquency conferred generally upon the cabinet by Kentucky Revised Statutes including, but not limited to, KRS Chapters 131, 134, and 135. The twenty percent (20%) fee that would have otherwise been paid to the county attorney shall be paid to the cabinet for deposit in the delinquent tax fund provided for under KRS 134.400.

(6) Any action on behalf of the state, county, and taxing districts authorized by this section or by KRS 134.470, 134.490, or 134.540 shall be filed on relation of the secretary, and the petition may be sent to the cabinet, which may require revision in instances where it deems revision or amendment necessary. The cabinet shall advise the county attorney in all actions, and may send him special assistance when the secretary deems assistance necessary. A copy of the judgment shall also be sent to the cabinet. If the cabinet sends assistance to a county attorney who contracts to prosecute the suits or proceedings, the county attorney shall be entitled to his full fee. On the same day that suit is filed, the county clerk shall be given notice of its filing. Costs incident to the suit shall become a part of the tax claim.

(7) The cabinet may make its delinquent tax collection databases and other technical resources, including but not limited to income tax refund offsetting, available to the county attorney upon request from the county attorney. The county attorney seeking assistance shall enter into any agreements required by the cabinet to protect taxpayer confidentiality, to ensure database integrity, or to address other concerns of the cabinet.

(8) The county attorney may, at any time after assuming collection duties, enter into an agreement with the delinquent taxpayer to accept installment payments on the delinquent tax bill. The agreement shall not waive the county attorney's right to initiate court action or other authorized collection activities if the taxpayer does not make payments in accordance with the agreement.

Section 3. Whereas the sheriff's sale of tax claims occurs before the effective date of this Act, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Substitute to **SB 138** is as follows:

SB 138, AN ACT relating to property tax and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.450 is amended to read as follows:

(1) The sheriff shall sell all tax claims for which payment by the delinquent taxpayer has not been made by the closing date for the acceptance by the sheriff of offers to purchase delinquent tax claims. If there is more than one (1) willing purchaser who has made an offer, the one having made the most recent purchase of a tax claim against the same delinquent or the same property shall have preference; if there is no such person, the person being the first, in the judgment of the sheriff, to offer to pay cash in the full amount of the tax claim shall receive priority for the purchase of the tax claim. If the total of all offers to purchase exceeds ten percent (10%) of the total dollar amount of the delinquent bills offered for sale, or the sum of two hundred thousand dollars ($200,000), whichever is less, the sheriff shall notify the Finance and Administration Cabinet of the offers of purchase within five (5) business days of the closing date when the offers were received. Upon receipt of the notice, the Finance and Administration Cabinet shall purchase the delinquent tax bills upon which the sheriff has received an offer of purchase and shall tender payment to the sheriff within fifteen (15) business days of the receipt of the sheriff's notice. Upon purchase of the tax claims, the state shall be the owner of the tax bills and may contract with the county attorney to collect all amounts due on its behalf under the terms and conditions of the county attorney's contract with the Revenue Cabinet to collect delinquent taxes. If the county attorney has not contracted with the Revenue Cabinet to collect delinquent taxes, the Revenue Cabinet shall collect all amounts due on behalf of the Finance and Administration Cabinet. If the Finance and Administration Cabinet does not purchase all of the delinquent tax bills, within fifteen (15) days of the closing date, the sheriff shall complete the sale of those tax claims for which the sheriff has received responsible offers to purchase. When a sale is made the tax bill shall be known as a certificate of delinquency and the sheriff shall inscribe thereon the date of sale, the sale price, and the name and address of the purchaser, in the place and manner prescribed by the Revenue Cabinet, and the purchaser shall be entitled to a certified copy of the certificate of delinquency.

(2) If no responsible offer in the amount of the tax claim is received, the sheriff shall purchase it for the state, county, and taxing districts having an interest in the tax claim. In such case, the tax bill shall also be known as a certificate of delinquency, and the sheriff shall inscribe thereon the same information required when one other than the state, county, or taxing district is the purchaser.

(3) The sheriff shall file all certificates of delinquency in the county clerk's office immediately upon completion of the tax sale***, or in a county containing a city of the first class or consolidated local government, within fourteen (14) working days of the sale,*** and the clerk shall retain them. The county clerk shall acknowledge receipt of the certificates by signing a receipt form that has been prepared in a manner prescribed by the Revenue Cabinet. If the sheriff fails to file the certificates, he shall be liable on his official bond for the aggregate amount of the certificates not returned, but the claim of the purchaser shall not be affected by this neglect. If the sheriff fails to return any certificate, the purchaser may file his certified copy with the clerk, with the same effect as the original.

(4) The clerk shall make, execute, and deliver a certified copy of a certificate of delinquency to the payor, or the clerk may provide for a certified electronic register of the certificates of delinquency in the clerk's record in lieu of delivering a certified copy of the certificate of delinquency.

(5) The certificate of delinquency is assignable by endorsement. The clerk shall note the assignment on the certificate of delinquency or the clerk may provide for a certified electronic certificate of delinquency in the clerk's records in lieu of delivering a certified copy of the certificate of delinquency. An assignment when noted on the record in the office of the county clerk vests in the assignee all rights and title of the original purchaser.

Section 2. KRS 134.500 is amended to read as follows:

(1) Uncollectible tax claims shall bear interest at twelve percent (12%) per annum simple interest from the date the certificate of delinquency is issued. A fraction of a month is counted as an entire month. The sheriff's add-on fee provided in KRS 134.430, the clerk's add-on fee provided in KRS 134.480, and the county attorney's add-on fee provided in this section shall be excluded from the interest calculation ***except in counties containing cities of the first class or consolidated local government***. All tax bills on omitted property that were not turned over to the sheriff in time to be collected or to make the sale provided for in KRS 134.430 and 134.440 shall also be submitted to the fiscal court but shall be carried over as a charge against the sheriff at the time he makes his next regular settlement.

(2) The cabinet shall be responsible for the collection of certificates of delinquency and delinquent personal property tax bills; however, the cabinet shall first offer the collection duties to the county attorney, unless the cabinet determines that the county attorney has previously failed to perform collection duties in a reasonable and acceptable manner. Any county attorney desiring to perform the duties associated with the collection of delinquent tax claims shall enter into a contract with the cabinet on an annual basis. The terms of the contract shall specify the duties to be undertaken by the county attorney. These duties shall include but are not limited to the following actions:

(a) Within fifty (50) days after the issuance of a certificate of delinquency to the state, county, and taxing district, the county attorney or the Revenue Cabinet shall cause a notice of the purchase to be mailed by regular mail to the property owner at the address on the records of the property valuation administrator. The notice shall advise the owner that the certificate is a lien of record against all property of the owner, and bears interest at the rate of twelve percent (12%) per annum, and if not paid will be subject to collection by the county attorney as provided by law.

(b) The county attorney shall file in the office of the county clerk a list of the names and addresses to which the notice was mailed along with a certificate that the notice was mailed in accordance with the requirements of this section.

(c) All notices returned as undeliverable shall be submitted to the property valuation administrator. The property valuation administrator shall attempt to correct inadequate or erroneous addresses and, if property has been transferred, shall determine the new owner and the current mailing address. The property valuation administrator shall return the notices with the corrected information to the county attorney prior to the expiration of the one (1) year tolling period provided in KRS 134.470.

(d) Within ninety (90) days after the expiration of the one (1) year tolling period provided in KRS 134.470, the county attorney shall cause a notice of his intention to enforce the lien to be mailed to all owners whose tax bills remain delinquent. No second notice shall be required for addresses previously determined to be undeliverable and for which the property valuation administrator has not provided corrected information.

(e) Failure to mail the notices shall not affect the validity of the claim of the state, county, and taxing district. The postal cost of mailing the notices shall be added to the certificate of delinquency and, upon collection, the county attorney shall be reimbursed for the postage. The county attorney shall deliver at the same time a list of the owners whose tax bills remain delinquent to the property valuation administrator. The property valuation administrator shall review this list in accordance with the provisions of KRS 132.220 to establish that the properties on the list can be identified and physically located.

(3) The county attorney who enters into a contract with the cabinet shall have a period of two (2) years after the expiration of the one (1) year tolling period provided in KRS 134.470 to collect delinquent tax bills or to initiate court action for their collection. At the expiration of the two (2) years the cabinet may assume responsibility for all uncollected bills except those with pending court action.

(4) The county attorney who enters into a contract with the cabinet and performs his duties in respect to the certificate of delinquency and delinquent personal property tax bills shall be entitled to twenty percent (20%) of the amount due each taxing unit, whether the tax claim is voluntarily paid or is paid through sale or under court order, and the fee shall be paid to him by the county clerk when making distribution, as provided in KRS 134.480. This fee shall be added to the amount of the tax claims and paid by the persons paying the tax claims. They shall not be paid by the taxing districts or deducted from the taxes due the taxing districts. This fee shall be waived if the certificate of delinquency is paid by the taxpayer only within five (5) days of the sheriff's sale. If more than one (1) county attorney renders necessary services in an effort to collect a tax claim, the attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the fee. When the county attorney's office, in an effort to collect a certificate of delinquency, or delinquent personal property tax bills files a court action which is litigated by the taxpayer, an additional county's attorney fee equal to thirteen percent (13%) of the total tax plus ten percent (10%) penalty, may be added to the certificate or the bill and shall become part of the tax claim.

(5) If a county attorney chooses not to contract for these collection duties or if a county attorney fails to perform the duties required by the contract, the cabinet shall assume responsibility for the collection process. In the performance of those duties, the cabinet shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of the amount due on the certificate of delinquency conferred generally upon the cabinet by Kentucky Revised Statutes including, but not limited to, KRS Chapters 131, 134, and 135. The twenty percent (20%) fee that would have otherwise been paid to the county attorney shall be paid to the cabinet for deposit in the delinquent tax fund provided for under KRS 134.400.

(6) Any action on behalf of the state, county, and taxing districts authorized by this section or by KRS 134.470, 134.490, or 134.540 shall be filed on relation of the secretary, and the petition may be sent to the cabinet, which may require revision in instances where it deems revision or amendment necessary. The cabinet shall advise the county attorney in all actions, and may send him special assistance when the secretary deems assistance necessary. A copy of the judgment shall also be sent to the cabinet. If the cabinet sends assistance to a county attorney who contracts to prosecute the suits or proceedings, the county attorney shall be entitled to his full fee. On the same day that suit is filed, the county clerk shall be given notice of its filing. Costs incident to the suit shall become a part of the tax claim.

(7) The cabinet may make its delinquent tax collection databases and other technical resources, including but not limited to income tax refund offsetting, available to the county attorney upon request from the county attorney. The county attorney seeking assistance shall enter into any agreements required by the cabinet to protect taxpayer confidentiality, to ensure database integrity, or to address other concerns of the cabinet.

(8) The county attorney may, at any time after assuming collection duties, enter into an agreement with the delinquent taxpayer to accept installment payments on the delinquent tax bill. The agreement shall not waive the county attorney's right to initiate court action or other authorized collection activities if the taxpayer does not make payments in accordance with the agreement.

Section 3. Whereas the sheriff's sale of tax claims occurs before the effective date of this Act, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

SB 178, AN ACT relating to state income tax filing extensions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.215 is amended to read as follows:

Members of the Army, Navy, Marines, Air Force, or Public Health Service of the United States government who serve in an area designated as a combat zone by presidential proclamation~~[or members who are serving on active duty outside the United States in Operation Desert Shield or Operation Desert Storm and]~~ who are required by law to file an income tax return and pay income taxes to the State of Kentucky shall not be required to file the return and pay the taxes, which would otherwise become due during the period of service, until twelve (12) months after the service.

SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) Members of the National Guard or any branch of the Reserves called to active duty who are required by law to file an income tax return and pay income taxes to the state of Kentucky shall be allowed an extension to file the return and pay the taxes, which would otherwise become due during the period of service, if the member serves in an area designated as a combat zone by presidential proclamation.

(2) The extension referred to in subsection (1) of this section shall expire twelve months after the service.

(3) No penalty shall accrue by reason of the extension.

The Committee on State Government reported **HB 748,** with Committee Substitute attached thereto, **HB 801,** with Committee Substitute and Committee Amendment attached thereto, **HB 857, HCR 132,** with Committee Substitute attached thereto, **HCR 218,** and **SB 121** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 748, AN ACT relating to state employee organizations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

For purposes of Sections 1 to 3 of this Act, a state employee organization is a nonprofit organization that:

(1) Represents all classified and unclassified employees in the executive branch of state government who are subject to KRS Chapter 18A, 151B, and 16A, exclusive of members and employees of the General Assembly and employees of the Legislative Research Commission;

(2) Is not associated or affiliated in any way with a labor organization as defined in KRS 336.180;

(3) Does not compensate its officers or members;

(4) Does not directly or indirectly pay or promise to pay any assessment for political purposes, or solicit or take part in soliciting any political assessment, subscription, contribution, or service;

(5) Does not contribute to a political action committee, political candidate, or political party; and

(6) Does not endorse any political candidate or political party.

SECTION 2. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

A state employee organization shall be permitted:

(1) To have, for meetings of the organization, reasonable, free-of-charge use of public buildings owned or leased by the Commonwealth of Kentucky; and

(2) To recruit members on state grounds and in state buildings at reasonable times and places not to include regular office hours.

SECTION 3. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

The Secretary of the Finance and Administration Cabinet, the Secretary of the Personnel Cabinet, and the State Treasurer shall permit a state employee organization to utilize the state payroll deduction process to collect voluntary member contributions.

The Committee Substitute to **HB 748** is as follows:

HB 748, AN ACT relating to state employee organizations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

For purposes of Sections 1 to 3 of this Act, a state employee organization is a nonprofit organization that:

(1) Shall have the right to represent any employee in the classified or unclassified service in the executive branch of state government who is subject to KRS Chapters 18A, 151B, and 16A, exclusive of members and employees of the General Assembly and employees of the Legislative Research Commission;

(2) Is not associated or affiliated in any way with a labor organization as defined in KRS 336.180;

(3) Does not compensate its officers or members;

(4) Does not directly or indirectly pay or promise to pay any assessment for political purposes, or solicit or take part in soliciting any political assessment, subscription, contribution, or service;

(5) Does not contribute to a political action committee, political candidate, or political party; and

(6) Does not endorse any political candidate or political party.

SECTION 2. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

A state employee organization shall be permitted:

(1) To have, for meetings of the organization, reasonable, free-of-charge use of public buildings owned or leased by the Commonwealth of Kentucky; and

(2) To recruit members on state grounds and in state buildings at reasonable times and places not to include regular office hours.

SECTION 3. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

The Secretary of the Finance and Administration Cabinet, the Secretary of the Personnel Cabinet, and the State Treasurer shall permit a state employee organization to utilize the state payroll deduction process to collect voluntary member contributions.

HB 801, AN ACT relating to state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.145 is amended to read as follows:

A member of the General Assembly who desires to resign his ***or her*** office shall submit a letter of resignation to the officer required to issue a writ of special election to fill such vacancy, pursuant to KRS 118.730. Upon receiving such letter of resignation such officer immediately shall notify the director of the Legislative Research Commission of the fact of such resignation and its effective date.

The Committee Substitute to **HB 801** is as follows:

HB 801, AN ACT relating to state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 78.530 is amended to read as follows:

(1) ***(a)*** Each county and school board, as defined in KRS 78.510, will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. In cases where general purpose county government does not participate, but the sheriff and his employees or the county clerk and his employees do, the sheriff or the clerk shall retain the order in his office. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.

(b) Notwithstanding any statute to the contrary, after the effective date of this Act, the systems shall deny the request for participation of any agency which does not have an irrevocable contract with the state Personnel Cabinet for health insurance coverage under KRS 18A.225 for its active employees.

(2) Once a county or school board participates, it shall thereafter continue to participate, except as provided in KRS 78.535.

(3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employee electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(2), current service credit for employment in regular full-time positions between July 1, 1958, and the participation date of the county. Cities which participate in the system pursuant to subsection (7) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 shall be required to purchase on behalf of each

employee electing coverage only as much service credit as the employee has accumulated in the city-administered plan, up to the participation date of the city. Accumulated service shall include service for which an employee received a refund pursuant to KRS 95.620 or 95.866, if such refund has been repaid. If the employee has not yet repaid the refund, he may make payment to the system by any method acceptable to the system, and the requirement of five (5) years of continuous reemployment prior to repayment of refunds shall not apply. Upon the employee's repayment, the city shall purchase the associated service credit for the employee. Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county;

(b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be thirty (30) years, with interest at the rate actuarially assumed by the board. A shorter period is desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period, except that cities which participate in the system pursuant to subsection (7) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 may, at their option, extend the payment schedule to a maximum of thirty (30) years, may choose to make level payments at the interest rate actuarially assumed by the board over the life of the payment schedule chosen, and may retain employer contributions and the earnings thereon attributable to employees electing coverage;

(c) A city entering the system under the alternate participation plan, may, by ordinance, levy a special property tax to pay for current service credit purchased for the period between July 1, 1958, and the participation date of the city. The special tax shall be to pay, within a period of no more than fifteen (15) years, for the cost of such service credit over that which would be funded within the existing employer contribution rate, as determined by the board's consulting actuary. The reason for levying the special tax and the disposition of the proceeds shall be part of the ordinance levying the tax. The special tax shall be rescinded when the unfunded prior service liability has been amortized, and shall not be subject to the provisions of KRS 132.017 or 132.027. In addition, the city may maintain any tax, the proceeds of which had been devoted to funding pension obligations under the locally administered plan prior to participation in the system, for the purpose of funding current service costs incurred after the date of participation. The city may increase the tax to pay current service costs which exceed the local pension system costs to which the tax had been devoted, but the city shall not collect from the tax more revenues than are necessary to pay current service costs incurred after the date of participation. The city may continue the tax so long as it participates in the system, and the tax shall not be subject to the provisions of KRS 132.017 or 132.027. The city shall not collect either tax authorized by this paragraph if its participation has been terminated pursuant to KRS 78.535;

(d) The county may at a later date purchase current service credit from July 1, 1958, to the participation date of the county by alternate participation plan for those employees who rejected membership in the system at the time the county first participated. In addition, the employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by adding it to the existing payment schedule established under paragraph (b) of this subsection;

(e) A county which did not participate by alternate participation may, until July 1, 1991, purchase current service credit for those employees who rejected membership in the system at the time the county first participated. The employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. The county shall pay the cost of the service credit by lump sum or by establishing a payment schedule under paragraph (b) of this subsection; and

(f) A county which participated in the system but did not elect the alternate participation plan may at a later date elect the alternate participation plan. In this case, the county shall purchase on behalf of each employee participating in the system current service credit for employment in regular full-time positions between July 1, 1958, or a later date selected by the county government, and the participation date of the county. The county shall also purchase, for employees who decide to participate when the county elects the alternate participation plan, current service credit for employment in regular full-time positions between July 1, 1958, or the later date selected by the county government, and the participation date of the county. In addition, the county shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by a payment schedule established under paragraph (b) of this subsection.

(4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no later than July 1, 1976.

(5) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system hospitals and any other semiindependent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.

(6) An agency whose participation in the County Employees Retirement System has been terminated by the board of trustees in accordance with KRS 78.535 may at a later date request participation in the retirement system by the adoption of an appropriate order as authorized by subsection (1) of this section. The board may accept the participation of such agency provided it is determined that such participation is in the best interest of the agency, the employees thereof and the County Employees Retirement System.

(7) *(a)* After August 1, 1988, except as permitted by KRS 65.156, no local government retirement system shall be created pursuant to KRS 70.580 to 70.598 and any local government retirement systems created pursuant to KRS 79.080, 90.400, 90.410, 95.768, and KRS Chapter 96 shall be closed to new members. New employees who would have been granted membership in such retirement systems shall instead be granted membership in the County Employees Retirement System. Employees who would have been granted membership in retirement systems created pursuant to KRS 95.768, or any other policemen or firefighters who would have been granted membership in retirement systems created pursuant to KRS 79.080, 90.400, or 90.410, or any such policemen or firefighter members employed on or prior to August 1, 1988, who transfer to the County Employees Retirement System, shall be certified by their employers as working in hazardous positions. Each city participating in the County Employees Retirement System pursuant to this subsection shall execute the appropriate order authorizing such participation, shall select the alternate participation plan as described in subsection (3) of this section, and shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Cities which closed their local pension systems to new members and participated in the system prior to July 15, 1988, whose employees at the time of transition were given the option to join the system shall not be required to offer said employees a second option to join the system.

(b) Notwithstanding any statute to the contrary, after the effective date of this Act, the systems shall deny the request for participation of any agency which does not have an irrevocable contract with the state Personnel Cabinet for health insurance coverage under KRS 18A.225 for its active employees.

(8) Any city which closed a police and firefighter pension plan to new members between January 1, 1988, and July 15, 1988, and participated in the system under the alternate participation plan shall, if its police and firefighters were not covered by Social Security, or any city which operates a pension under KRS 90.400 or 90.410, shall be required to certify that its police and firefighters are working in hazardous positions, and shall offer its police and firefighters in service at the time of entry a second option to participate under hazardous duty coverage if they were not offered hazardous duty coverage at the time of their first option. The provisions of subsection (3)(b) of this section notwithstanding, a city affected by this subsection may, at its option, extend its payment schedule to the County Employees Retirement System for alternate participation to thirty (30) years at the rate actuarially assumed by the board.

Section 2. Whereas the cost of health insurance for state and local employees within the state group is expected to rise at least eleven percent (11%) annually and the cost is dramatically affected by agencies whose retirees are in the state group but whose active employees are not, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Amendment No. 1 Title to **HB 801** is as follows:

Delete the title "AN ACT relating to state government." and in lieu thereof insert "AN ACT relating to retirement and declaring an emergency.".

HB 857, AN ACT designating "Deo gratiam habeamus" as the Commonwealth's official Latin motto.

WHEREAS, the first Constitution of the Commonwealth of Kentucky was established in 1792 as the governing instrument of the state of Kentucky; and

WHEREAS, the Preamble to the current Constitution of the Commonwealth of Kentucky was established at Frankfort on the 28th day of September in the year of our Lord one thousand eight hundred ninety-one and in the one hundredth year of the Commonwealth; and

WHEREAS, the Preamble states, "We, the people of the Commonwealth of Kentucky, grateful to Almighty God for the civil, political and religious liberties we enjoy, and invoking the continuance of these blessings, do ordain and establish this Constitution."; and

WHEREAS, the Latin phrase "Deo gratiam habeamus," which is rendered in English "Let us be grateful to God," does correctly express the sentiment clearly stated in the Preamble to our Constitution;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The phrase "Deo gratiam habeamus" is named and designated the Commonwealth's official Latin motto.

HCR 132, A CONCURRENT RESOLUTION to study how best to implement a disaster relief funding program for the Commonwealth, its local governments, and citizens.

WHEREAS, the Commonwealth is subject to many types of natural and manmade disasters and emergencies which leave recovery costs in their wake; and

WHEREAS, these disasters include floods, tornadoes, snowstorms, hazardous materials incidents, fires, power outages, and others too numerous to mention; and

WHEREAS, in a large disaster, following a Presidential disaster declaration, the Federal Emergency Management Agency covers a large portion of the costs of recovering from the disaster; and

WHEREAS, even with a Presidential disaster declaration, state and local governments must routinely match the federal dollars, dollars which local government does not have; and

WHEREAS, small disasters which do not qualify for federal assistance require 100% funding of recovery efforts for local governments and the citizens by local governments; and

WHEREAS, the Governor's emergency fund is sometimes used to provide relief in such situations but is not always able to fund recovery efforts in specific incidents; and

WHEREAS, in reality, the Commonwealth has no fund specifically dedicated to helping local governments and the citizens recover from disasters, either large or small; and

WHEREAS, disasters and emergencies do not recognize that local government and the citizens may not have the money to recover and rebuild after disasters and emergencies, so these incidents keep occurring; and

WHEREAS, the House of Representatives, the Senate concurring therein, recognizing the need to establish such a fund, wants to gather together local government officials, emergency management professionals, and members of the General Assembly to work out the most feasible and efficient means of establishing and operating a disaster relief funding program;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Disaster Relief Funding Task Force is created and is directed to study the establishment of a disaster relief funding program for the Commonwealth which would provide grants that require no matching funds to units of local government and the citizens to recover and rebuild following a disaster or emergency where federal funds were either unavailable or insufficient to fund the recovery and rebuilding effort.

Section 2. The Legislative Research Commission shall appoint not less than five Representatives and five Senators who are members of the Interim Joint Committee on State and Local Government to the Task Force on Disaster Grant Funding and one (1) person each recommended by the following organizations: Division of Emergency Management; Department for Local Government; Kentucky Emergency Management Association; Kentucky Association of Counties; Kentucky County Judge/Executives Association; Kentucky Magistrates and Commissioners Association; and Kentucky Municipal League. The agencies and organizations specified in this section shall inform the Legislative Research Commission as to their recommended permanent representative to the task force within twenty days after the effective date of this resolution. Any organization which does not make such a notification shall forfeit membership on the task force. Only the permanent member of a state agency or organization may represent the agency or organization or vote at any meeting of the task force.

Section 3. Members of the task force may be reimbursed for travel and other necessary expenses. All members shall have voting privileges. The chair and vice chairs of the task force shall be members of the Interim Joint Committee on State and Local Government and shall be chosen by the Legislative Research Commission.

Section 4. The task force shall report to the Interim Joint Committee on State and Local Government and the Legislative Research Commission recommendations relating to at least the following subjects: sources of revenue; the agency or official which should administer the program; whether grant decisions should be made by a committee or by a single official; eligibility for grant funding; the constitutionality of providing grants to individual citizens; amount of grant funding; the handling of requests in excess of the amount of funding available; disqualifying factors relating to application for funds; and similar details. The report shall include a draft of legislation necessary to accomplish the program recommended. The report shall be completed and presented to the Interim Joint Committee on State and Local Government and the Legislative Research Commission not later than October 15, 2002.

Section 5. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Substitute to **HCR 132** is as follows:

HCR 132, A CONCURRENT RESOLUTION to study how best to implement a disaster relief funding program for the Commonwealth, its local governments, and citizens.

WHEREAS, the Commonwealth is subject to many types of natural and manmade disasters and emergencies which leave recovery costs in their wake; and

WHEREAS, these disasters include floods, tornadoes, snowstorms, hazardous materials incidents, fires, power outages, and others too numerous to mention; and

WHEREAS, in a large disaster, following a Presidential disaster declaration, the Federal Emergency Management Agency covers a large portion of the costs of recovering from the disaster; and

WHEREAS, even with a Presidential disaster declaration, state and local governments must routinely match the federal dollars, dollars which local government does not have; and

WHEREAS, small disasters which do not qualify for federal assistance require 100% funding of recovery efforts for local governments and the citizens by local governments; and

WHEREAS, the Governor's emergency fund is sometimes used to provide relief in such situations but is not always able to fund recovery efforts in specific incidents; and

WHEREAS, in reality, the Commonwealth has no fund specifically dedicated to helping local governments and the citizens recover from disasters, either large or small; and

WHEREAS, disasters and emergencies do not recognize that local government and the citizens may not have the money to recover and rebuild after disasters and emergencies, so these incidents keep occurring; and

WHEREAS, the House of Representatives, the Senate concurring therein, recognizing the need to establish such a fund, wants to gather together local government officials, emergency management professionals, and members of the General Assembly to work out the most feasible and efficient means of establishing and operating a disaster relief funding program;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Disaster Relief Funding Task Force is created and is directed to study the establishment of a disaster relief funding program for the Commonwealth which would provide grants that require no matching funds to units of local government and the citizens to recover and rebuild following a disaster or emergency where federal funds were either unavailable or insufficient to fund the recovery and rebuilding effort.

Section 2. The Legislative Research Commission shall appoint the following members to the Task Force on Disaster Grant Funding:

(1) Two Representatives and two Senators who are members of the Interim Joint Committee on State Government;

(2) Two Representatives and two Senators who are members of the Interim Joint Committee on Local Government;

(3) One Representative and one Senator who are members of the Interim Joint Committee on Appropriations and Revenue; and

(4) One person recommended by each of the following organizations:

  (a) The Division of Emergency Management of the Department of Military Affairs;

  (b) The Department for Local Government;

  (c) The Kentucky Emergency Management Association;

  (d) The Kentucky Association of Counties;

  (e) The Kentucky League of Cities; and

  (f) The Kentucky Council of Area Development Districts.

The agencies and organizations specified in this subsection shall inform the Legislative Research Commission as to their recommended permanent representative to the task force within twenty days after the effective date of this resolution. Any organization which does not make such a notification shall forfeit membership on the task force. Only the permanent member of a state agency or organization may represent the agency or organization or vote at any meeting of the task force.

Section 3. Members of the task force may be reimbursed for travel and other necessary expenses. All members shall have voting privileges. The chair and vice chairs of the task force shall be members of the Interim Joint Committee on State Government or the Interim Joint Committee on Local Government and shall be chosen by the Legislative Research Commission.

Section 4. The task force shall report to the Interim Joint Committee on State Government, the Interim Joint Committee on Local Government, the Interim Joint Committee on Appropriations and Revenue, and the Legislative Research Commission recommendations relating to at least the following subjects: sources of revenue; the agency or official which should administer the program; whether grant decisions should be made by a committee or by a single official; eligibility for grant funding; the constitutionality of providing grants to individual citizens; amount of grant funding; the handling of requests in excess of the amount of funding available; disqualifying factors relating to application for funds; and similar details. The report shall include a draft of legislation necessary to accomplish the program recommended. The report shall be completed and presented to the interim committees and the Legislative Research Commission not later than October 15, 2002.

Section 5. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

HCR 218, A CONCURRENT RESOLUTION directing a study of state office space needs.

WHEREAS, it is the objective of the General Assembly to provide needed space for the Commonwealth in the most economical and efficient manner; and

WHEREAS, during the 2001-2002 Interim, the Capital Planning Advisory Board of the General Assembly and the Legislative Research Commission Capital Projects and Bond Oversight Committee received information from the Finance and Administration Cabinet relating to alternative approaches for financing and constructing state office buildings versus renting space to house state agencies; and

WHEREAS, the Finance and Administration Cabinet is required to develop long-range plans for housing state agencies pursuant to KRS 42.027;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to conduct a study to analyze the cost and benefits of the Commonwealth's construction of facilities for state office space versus the rental of privately-owned facilities. The study shall encompass the office space needs of the executive, judicial, and legislative branches of state government.

Section 2. The Finance and Administration Cabinet and the Administrative Office of the Courts are directed to work with the Legislative Research Commission in conducting this study.

Section 3. A report of the findings and recommendations shall be completed and made available to the Legislative Research Commission no later than November 1, 2002, for distribution to legislative committees, the Chief Justice, and the Governor.

Section 4. Provisions of this resolution notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

SB 121, AN ACT relating to corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 271B.1-200 is amended to read as follows:

(1) A document shall satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing by the Secretary of State.

(2) This chapter must require or permit filing the document in the office of the Secretary of State.

(3) The document shall contain the information required by this chapter. It may contain other information as well.

(4) The document shall be typewritten***,***[~~ or~~] printed***, or electronically transmitted. If the document is electronically transmitted, the document shall be in a format that can be retrieved or reproduced in typewritten or printed form***.

(5) The document shall be in the English language. A corporate name may be in a language other than English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign corporations, if not in English, shall be accompanied by a reasonably authenticated English translation.

(6) The document shall be executed:

(a) By the chairman of the board of directors of a domestic or foreign corporation, by its president, or by another of its officers;

(b) If directors have not been selected or the corporation has not been formed, by an incorporator; or

(c) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

(7) The person executing the document shall sign it and state beneath or opposite his signature his name and the capacity in which he signs. The document may but need not contain:

(a) ***A***~~[The]~~ corporate seal ***of the corporation***;

(b) An attestation***,***~~[by the secretary or an assistant secretary;~~

~~(c) An]~~ acknowledgment, ***or*** verification~~[, or proof]~~; or

(c)~~[(d)]~~A statement regarding the preparer of the document which complies with KRS 382.335.

(8) If the Secretary of State has prescribed a mandatory form for the document under KRS 271B.1-210, the document shall be in or on the prescribed form.

(9) The document shall be delivered to the office of the Secretary of State for filing***. Delivery may be made by electronic transmission if and to the extent permitted by the Secretary of State. If the document is filed in typewritten or printed form and not transmitted electronically, the Secretary of State may require one (1) exact or conformed copy to be delivered with the document, except as provided in KRS 271B.5-030 and KRS 271B.15-090***~~[and shall be accompanied by two (2) exact or conformed copies, the correct filing fee, the organization tax and any penalty required by this chapter or other law to be collected by the office of the Secretary of State]~~.

(10) One (1)~~[of such]~~ exact or conformed ***paper, but not electronic, copy of the document***~~[copies]~~ shall then be filed with and recorded by the county clerk of the county in which the registered office of the corporation is situated.

(11) When the document is delivered to the office of the Secretary of State for filing, the correct filing fee, the organization tax, and any penalty required by this chapter or other law to be collected by the office of the Secretary of State with the document shall be paid or provision for payment shall be made in a manner permitted by the Secretary of State. The Secretary of State may accept payment of the correct amount due by credit card, charge card, or similar method. However, if the amount due is tendered by any method other than cash, the liability shall not be finally discharged until the Secretary of State receives final payment or credit of collectible funds.

Section 2. KRS 271B.1-230 is amended to read as follows:

(1) Except as provided in subsection (2) of this section and subsection (3) of KRS 271B.1-240, a document accepted for filing shall be effective:

(a) At the ***date and*** time of filing~~[on the date it is filed]~~, as evidenced by ***such means as*** the Secretary of ***State may use for the purpose of recording the date and time of filing***~~[State's date and time endorsement on the original document]~~; or

(b) At the time specified in the document as its effective time on the date it is filed.

(2) A document may specify a delayed effective time and date, and if it does so the document shall become effective at the time and date specified. If a delayed effective date but no time is specified, the document shall be effective at the close of business on that date. A delayed effective date for a document may not be later than the ninetieth day after the date it is filed.

(3) A document filed in accordance with subsections (1) and (2) of this section shall be effective regardless of a failure to file the document with the county clerk pursuant to subsection (10) of KRS 271B.1-200.

Section 3. KRS 271B.1-240 is amended to read as follows:

(1) A domestic or foreign corporation may correct a document filed by a Secretary of State if~~[the document]~~:

(a) ***The document*** contains an ***inaccuracy***~~[incorrect statement]~~;~~[or]~~

(b) ***The document*** was defectively executed, attested, sealed, verified, or acknowledged***; or***

(c) Electronic transmission of the document to the Secretary of State was defective.

(2) A document is corrected:

(a) By preparing articles of correction that:

1. Describe the document (including its filing date) or attach a copy of it to the articles;

2. Specify the ***inaccuracy or defect to be corrected***~~[incorrect statement and the reason it is incorrect or the manner in which the execution was defective]~~; and

3. Correct the ***inaccuracy or defect***~~[incorrect statement or defective execution]~~; and

(b) By delivering the articles to the Secretary of State for filing.

(3) Articles of correction shall be effective on the effective date of the document they correct except as to persons relying on the uncorrected document adversely affected by the correction. As to those persons, articles of correction shall be effective when filed.

Section 4. KRS 271B.1-250 is amended to read as follows:

(1) If a document delivered to the office of the Secretary of State for filing satisfies the requirements of KRS 271B.1-200, the Secretary of State shall file it.

(2) The Secretary of State files a document by ***recording it as filed on***[~~stamping or otherwise endorsing "Filed," together with his name and official title and~~] the date and time of receipt[~~, on both the original and the document copies and on the receipt for the filing fee~~]. After filing a document, except as provided in KRS 271B.5-030 and 271B.15-090, the Secretary of State shall deliver[~~ the document copies, with the filing fee receipt (or acknowledgment of receipt if no fee is required) attached,~~] to the domestic or foreign corporation or its representative ***a copy of the document with an acknowledgment of the date and time of filing***.

(3) If the Secretary of State refuses to file a document, he shall return it to the domestic or foreign corporation or its representative within five (5) days after the document was delivered, together with a brief, written explanation of the reason for his refusal.

(4) The Secretary of State's duty to file documents under this section shall be ministerial. His filing or refusal to file a document shall not:

(a) Affect the validity or invalidity of the document in whole or part;

(b) Relate to the correctness or incorrectness of information contained in the document; or

(c) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

Section 5. KRS 271B.1-270 is amended to read as follows:

A certificate ***from the Secretary of State delivered with***[~~attached to~~] a copy of the document filed by the Secretary of State[~~, bearing his signature (which may be in facsimile) and the seal of this state,~~] shall be conclusive evidence that the original document is on file with the Secretary of State.

Section 6. KRS 271B.1-400 is amended to read as follows:

In this chapter:

(1) "Articles of incorporation" include amended and restated articles of incorporation and articles of merger.

(2) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

(3) "Conspicuous" means so written that a reasonable person against whom the writing is to operate should have noticed it. For example, printing in italics or boldface or contrasting color, or typing in capitals or underlining, shall be considered conspicuous.

(4) "Corporation" or "domestic corporation" means a corporation for profit, which is not a foreign corporation, incorporated under or subject to the provisions of this chapter.

(5) "Deliver" ***or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission***[~~ includes mail~~].

(6) "Distribution" means a direct or indirect transfer of money or other property (except its own shares) or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise.

(7) "Effective date of notice" is defined in KRS 271B.1-410.

(8) ***"Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient.***

(9) "Employee" includes an officer but not a director. A director may accept duties that make him also an employee.

(10)[~~(9)~~] "Entity" includes corporation and foreign corporation; not-for-profit corporation; profit and not-for-profit unincorporated association; business trust, estate, partnership, trust, and two (2) or more persons having a joint or common economic interest; and state, United States, and foreign government.

(11)[~~(10)~~] "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state.

(12)[~~(11)~~] "Governmental subdivision" includes authority, county, district, and municipality.

(13)[~~(12)~~] "Includes" denotes a partial definition.

(14)[~~(13)~~] "Individual" includes the estate of an incompetent or deceased individual.

(15)[~~(14)~~] "Means" denotes an exhaustive definition.

(16)[~~(15)~~] "Notice" is defined in KRS 271B.1-410.

(17)[~~(16)~~] "Person" includes individual and entity.

(18)[~~(17)~~] "Principal office" means the office (in or out of this state) so designated in writing to the Secretary of State where the principal executive offices of a domestic or foreign corporation are located.

(19)[~~(18)~~] "Proceeding" includes civil suit and criminal, administrative, and investigatory action.

(20)[~~(19)~~] "Record date" means the date established under Subtitles 6 or 7 on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this chapter. The determinations shall be made as of the close of business on the record date, unless another time for doing so is specified when the record date is fixed.

(21)[~~(20)~~] "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under subsection (3) of KRS 271B.8-400 for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

(22)[~~(21)~~] "Share" means the unit into which the proprietary interests in a corporation are divided.

(23)[~~(22)~~] "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(24)"Sign" or "signature" includes any manual, facsimile, or conformed or electronic signature.

(25)[~~(23)~~] "State" when referring to a part of the United States, includes a state and Commonwealth (and their agencies and governmental subdivisions) and a territory, and insular possession (and their agencies and governmental subdivisions) of the United States.

(26)[~~(24)~~] "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

(27)[~~(25)~~] "United States" includes district, authority, bureau, commission, department, and any other agency of the United States.

(28)[~~(26)~~] "Voting group" means all shares of one (1) or more classes or series that under the articles of incorporation or this chapter are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this chapter to vote generally on the matter are for that purpose a single voting group.

Section 7. KRS 271B.1-410 is amended to read as follows:

(1) Notice under this chapter shall be in writing unless oral notice is reasonable under the circumstances. ***Notice by electronic transmission is written notice.***

(2) Notice may be communicated in person; by[~~ telephone, telegraph, teletype, or other form of wire or wireless communication; or by~~] mail or ***other method of delivery; or by telephone, voice mail, or other electronic means***[~~private carrier~~]. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published; or by radio, television, or other form of public broadcast communication.

(3) Written notice by a domestic or foreign corporation to its shareholder, if in a comprehensible form, shall be effective***:***

(a) Upon deposit in the United States mail[~~ when mailed~~], if mailed postpaid and correctly addressed to the shareholder's address shown in the corporation's current record of shareholders***; or***

(b) When electronically transmitted to the shareholder in a manner authorized and in accordance with the shareholder's instructions, if any.

(4) Written notice to a domestic or foreign corporation (authorized to transact business in this state) may be addressed to its registered agent at its registered office or to the corporation or its secretary at its principal office shown in its most recent annual report or, in the case of a foreign corporation that has not yet delivered an annual report, in its application for a certificate of authority.

(5) Except as provided in subsections (3) and (4) of this section, written notice, if in a comprehensible form, shall be effective at the earliest of the following:

(a) When received;

(b) Five (5) days after its deposit in the United States mail,[~~ as evidenced by the postmark,~~] if mailed postpaid and correctly addressed;

(c) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

(6) Oral notice shall be effective when communicated if communicated in a comprehensible manner.

(7) If this chapter prescribes notice requirements for particular circumstances, those requirements, shall govern. If articles of incorporation or bylaws prescribe notice requirements not inconsistent with this section or other provisions of this chapter, those requirements shall govern.

Section 8. KRS 271B.6-020 is amended to read as follows:

(1) If the articles of incorporation so provide, the board of directors may determine, in whole or in part, the preferences, limitations, and relative rights (within the limits set forth in KRS 271B.6-010 of:

(a) Any class of shares before the issuance of any shares of that class; or

(b) One (1) or more series within a class before the issuance of any shares of that series.

(2) Each series of a class shall be given a distinguishing designation.

(3) All shares of a series shall have preferences, limitations, and relative rights identical with those of other shares of the same series and, except to the extent otherwise provided in the description of the series, with those of other series of the same class.

(4) Before issuing any shares of a class or series created under this section, the corporation shall deliver to the secretary of state for filing articles of amendment, which are effective without shareholder action, that set forth:

(a) The name of the corporation;

(b) The text of the amendment determining the terms of the class or series of shares;

(c) The date it was adopted; and

(d) A statement that the amendment was duly adopted by the board of directors.

(5) The board of directors may adopt articles of amendment without shareholder action to make any of the following changes to a class or series created under this section:

(a) Increase the number of shares of a series but not above the total number of authorized and unissued shares of the class;

(b) Decrease the number of shares of a series but not below the number of shares of the series then issued and outstanding;

(c) Amend the designation, preferences, limitations, or relative rights of the shares of a class or series if no shares of the class or series are then issued or outstanding; or

(d) Eliminate the designation of, and all references to, a series from the articles of incorporation if no shares of the series are then issued and outstanding.

(6) If an amendment reduces the number of shares of a series, or eliminates a series, the shares previously subject to issuance in the series shall return to the status they had before the creation of the series.

(7) Articles of amendment adopted pursuant to subsection (5) of this section shall be delivered to the Secretary of State for filing and shall state:

(a) The name of the corporation;

(b) The designation of the class or series subject to the amendment;

(c) The text of the amendment changing the class or series;

(d) The date the amendment was adopted; and

(e) A statement that the amendment was duly adopted by the board of directors.

Section 9. KRS 271B.6-210 is amended to read as follows:

(1) The powers granted in this section to the board of directors may be reserved to the shareholders by the articles of incorporation.

(2) The board of directors may authorize shares to be issued for consideration consisting only of an equivalent in money paid or labor done, or property actually received and applied to the purposes for which such corporation was created, and neither labor nor property shall be received in payment of consideration for the issuance of shares at a greater value than the market price at the time such labor was done or property delivered, and all fictitious increase of shares shall be void.

(3) Before the corporation issues shares, the board of directors shall determine that the consideration received or to be received for shares to be issued is adequate. That determination by the board of directors is conclusive insofar as the adequacy of consideration for the issuance of shares relates to whether the shares are validly issued, fully paid, and nonassessable.

(4) When the corporation receives the consideration for which the board of directors authorized the issuance of shares in accordance with this section, the shares issued therefor ***are***[~~shall be considered~~] fully paid and nonassessable.

(5) ***The board of directors, or a committee of the board of directors, may authorize one (1) or more officers of the corporation to approve the issuance, sale, or contract for sale of shares or to determine the designation and relative rights, preferences, and limitations of a class or series of shares, all within limits specifically prescribed by the board of directors or the committee.***

(6) The consideration received for the issuance of shares having a par value, to the extent in excess of the par value of such shares, shall be deemed to include consideration paid for the issuance of shares as share dividends, from time to time, with respect to any outstanding shares of that class or series, as provided in subsection (1) of KRS 271B.6-230. The consideration received for the issuance of shares without par value shall be deemed to include consideration paid for the issuance of shares as share dividends, from time to time, with respect to any outstanding shares of that class or series, as provided in subsection (1) of KRS 271B.6-230. The amount of capital surplus of a corporation immediately prior to January 1, 1989, shall also be deemed to be consideration paid for the issuance of shares, from time to time, as a share dividend within the meaning of this subsection.

(7)[~~(6)~~] To the extent consolidated net income of the corporation or consideration theretofore received by the corporation for the issuance of shares is relied upon for the issuance of a share dividend, as provided in subsection (1) of KRS 271B.6-230, the board of directors shall designate some or all of such consolidated net income or existing consideration as the consideration paid for the issuance of such shares as a share dividend, and such designated amount shall thereafter not be included in the amount available under subsection (1) of KRS 271B.6-230 as consideration for the issuance of shares as share dividends.

Section 10. KRS 271B.6-210 is amended to read as follows:

(1) The powers granted in this section to the board of directors may be reserved to the shareholders by the articles of incorporation.

(2) The board of directors~~,~~ may authorize shares to be issued for consideration consisting ***of any tangible or intangible property or benefit to the corporation, including cash, promissory notes, services performed, contracts for services to be performed, or other securities of the corporation***[~~only of an equivalent in money paid or labor done, or property actually received and applied to the purposes for which such corporation was created, and neither labor nor property shall be received in payment of consideration for the issuance of shares at a greater value than the market price at the time such labor was done or property delivered, and all fictitious increase of shares shall be void~~].

(3) Before the corporation issues shares, the board of directors shall determine that the consideration received or to be received for shares to be issued is adequate. That determination by the board of directors is conclusive insofar as the adequacy of consideration for the issuance of shares relates to whether the shares are validly issued, fully paid, and nonassessable.

(4) When the corporation receives the consideration for which the board of directors authorized the issuance of shares in accordance with this section, the shares issued therefor ***are***[~~shall be considered~~] fully paid and nonassessable. ***When, and to the extent, consideration for the issuance of shares consists of a promissory note or contract for services or other benefits, the shares shall be fully paid and nonassessable at the time the note is issued or the contract is entered into.***

(5) ***The board of directors, or a committee of the board of directors, may authorize one (1) or more officers of the corporation to approve the issuance, sale, or contract for sale of shares or to determine the designation and relative rights, preferences, and limitations of a class or series of shares, all within limits specifically prescribed by the board of directors or the committee***[~~The consideration received for the issuance of shares having a par value, to the extent in excess of the par value of such shares, shall be deemed to include consideration paid for the issuance of shares as share dividends, from time to time, with respect to any outstanding shares of that class or series, as provided in subsection (1) of KRS 271B.6-230. The consideration received for the issuance of shares without par value shall be deemed to include consideration paid for the issuance of shares as share dividends, from time to time, with respect to any outstanding shares of that class or series, as provided in subsection (1) of KRS 271B.6-230. The amount of capital surplus of a corporation immediately prior to January 1, 1989, shall also be deemed to be consideration paid for the issuance of shares, from time to time, as a share dividend within the meaning of this subsection.~~

~~(6) To the extent consolidated net income of the corporation or consideration theretofore received by the corporation for the issuance of shares is relied upon for the issuance of a share dividend, as provided in subsection (1) of KRS 271B.6-230, the board of directors shall designate some or all of such consolidated net income or existing consideration as the consideration paid for the issuance of such shares as a share dividend, and such designated amount shall thereafter not be included in the amount available under subsection (1) of KRS 271B.6-230 as consideration for the issuance of shares as share dividends~~].

Section 11. KRS 271B.6-230 is amended to read as follows:

(1) Unless the articles of incorporation provide otherwise, shares may be issued pro rata ***and without consideration*** to the corporation's shareholders or to the shareholders of one (1) or more classes or series[~~ to the extent:~~

~~(a) The aggregate consideration received by the corporation for the issuance of all shares of such class or series then outstanding includes consideration for the issuance of such shares pro rata, as provided in subsection (1) of KRS 271B.6-210; and/or~~

~~(b) The consolidated net income of the corporation, measured either for the current fiscal year or for all prior fiscal years, less the amount of distributions in the form of dividends theretofore paid to shareholders, is not less than the consideration determined by the board of directors for the issuance of such shares pro rata~~].

An issuance of shares under this subsection shall be considered a share dividend.

(2) Shares of one class or series may not be issued as a share dividend in respect of shares of another class or series unless:

(a) The articles of incorporation so authorize;

(b) A majority of the votes entitled to be cast by the class or series to be issued approve the issue; or

(c) There are no outstanding shares of the class or series to be issued.

(3) If the board of directors does not fix the record date for determining shareholders entitled to a share dividend, it shall be the date the board of directors authorizes the share dividend.

Section 12. KRS 271B.6-240 is amended to read as follows:

(1) A corporation may issue rights, options, or warrants for the purchase of shares of the corporation. The board of directors shall determine the terms upon which the rights, options, or warrants are issued, their form and content, and the terms and conditions upon which and the consideration for which the shares are to be issued.

(2) (a) The board of directors may, by a resolution adopted by the board, authorize one (1) or more officers of the corporation to do one (1) or more of the following:

1. Designate officers and employees of the corporation or of any of its subsidiaries to receive rights, options, or warrants to be issued by the corporation;

2. Determine the number of rights, options, or warrants to be issued to each recipient; and

3. Determine the time or times at or during which rights, options, or warrants may be exercised.

(b) Any resolution adopted pursuant to paragraph (a) of this subsection shall specify the total number of rights, options, or warrants the officer or officers may award.

(c) The board of directors shall not authorize an officer to designate himself or herself as a recipient of any rights, options, or warrants.

Section 13. KRS 271B.6-270 is amended to read as follows:

(1) The articles of incorporation, bylaws, an agreement among shareholders, or an agreement between shareholders and the corporation may impose restrictions on the transfer or registration of transfer of shares of the corporation. A restriction shall not affect shares issued before the restriction was adopted unless the holders of the shares are parties to the restriction agreement or voted in favor of the restriction.

(2) A restriction on the transfer or registration of transfer of shares shall be valid and enforceable against the holder, or a transferee of the holder, if the restriction is authorized by this section, and the holder or transferee has actual knowledge of the restriction or its existence is noted conspicuously on the front or back of the certificate, or is contained in the information statement required by subsection (2) of KRS 271B.6-260. Unless so noted, a restriction is not enforceable against a person without knowledge of the restriction.

(3) A restriction on the transfer or registration of transfer of shares shall be authorized:

(a) To maintain the corporation's status when it is dependent on the number or identity of its shareholders;

(b) To preserve exemptions under federal or state securities law;[~~ or~~]

(c) ***In connection with shares issued by the corporation to its officers, directors, employees, or independent contractors, including as equity based compensation under the Internal Revenue Code; or***

(d) For any other reasonable purpose.

(4) A restriction on the transfer or registration of transfer of shares may without limitation:

(a) Obligate the shareholder first to offer the corporation or other persons (separately, consecutively, or simultaneously) an opportunity to acquire the restricted shares;

(b) Obligate the corporation or other persons (separately, consecutively, or simultaneously) to acquire ***or transfer*** the restricted shares;

(c) ***Obligate a shareholder to transfer the restricted shares to the corporation or other persons for an agreed price or a price based on a valuation formula, including an obligation to transfer the shares for an amount equal to the original consideration paid for the shares;***

(d) Require the corporation, the holders of any class of its shares, or another person to approve the transfer of the restricted shares, if the requirement is not manifestly unreasonable; or

(e)[~~(d)~~]Prohibit the transfer of the restricted shares to designated persons or classes of persons, if the prohibition is not manifestly unreasonable.

(5) For purposes of this section, "shares" includes a security convertible into or carrying a right to subscribe for or acquire shares.

Section 14. KRS 271B.7-040 is amended to read as follows:

(1) Except as provided in the articles of incorporation, action required or permitted by this chapter to be taken at a shareholders' meeting may be taken without a meeting and without prior notice, except as provided in subsection ***(8)***[~~(7)~~] of this section, if the action is taken by all the shareholders entitled to vote on the action.

(2) If the articles of incorporation so provide, any action except the election of directors pursuant to KRS 271B.7-280 required or permitted by this chapter to be taken at a shareholders' meeting may be taken without a meeting and without prior notice, except as provided in subsection ***(8)***[~~(7)~~] of this section, if the action is taken by shareholders entitled to vote on the action representing not less than eighty percent (80%) (or such higher percentage required by this chapter or the articles of incorporation) of the votes entitled to be cast.

(3) The action taken under this section shall be evidenced by one (1) or more written consents describing the action taken, signed by the shareholders taking the action, and delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(4) Action taken under this section shall be effective when consents representing the votes necessary to take the action under

this section are delivered to the corporation, or upon delivery of the consents representing the necessary votes, as of a different date if specified in the consent.

(5) Any shareholder giving a consent may revoke the consent by a writing received by the corporation prior to the time that consents representing the votes required to take the action under this section have been delivered to the corporation but may not do so thereafter.

(6) A consent signed under this section shall have the effect of a meeting vote and may be described as such in any document.

(7) Prompt notice of the taking of any action by shareholders without a meeting under this section by less than unanimous written consent shall be given to those shareholders entitled to vote on the action who have not consented in writing.

(8) If this chapter requires that notice of proposed action be given to nonvoting shareholders and the action is to be taken by consent of the voting shareholders under this section, the corporation shall give its nonvoting shareholders and voting shareholders whose consent is not solicited, written notice of the proposed action at least ten (10) days before the action is taken. The notice shall contain or be accompanied by the same material that, under this chapter, would have been required to be sent to nonvoting shareholders in a notice of meeting at which the proposed action would have been submitted to the shareholders for action.

Section 15. KRS 271B.7-040 is amended to read as follows:

(1) Except as provided in the articles of incorporation, action required or permitted by this chapter to be taken at a shareholders' meeting may be taken without a meeting and without prior notice, except as provided in subsection ***(8)***[~~(7)~~] of this section, if the action is taken by all the shareholders entitled to vote on the action.

(2) If the articles of incorporation so provide, any action except the election of directors ***by cumulative voting*** pursuant to KRS 271B.7-280 required or permitted by this chapter to be taken at a shareholders' meeting may be taken without a meeting and without prior notice, except as provided in subsection ***(8)***[~~(7)~~] of this section, if the action is taken by shareholders entitled to vote on the action representing not less than eighty percent (80%) (or such higher percentage required by this chapter or the articles of incorporation) of the votes entitled to be cast.

(3) The action taken under this section shall be evidenced by one (1) or more written consents describing the action taken, signed by the shareholders taking the action, and delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(4) Action taken under this section shall be effective when consents representing the votes necessary to take the action under this section are delivered to the corporation, or upon delivery of the consents representing the necessary votes, as of a different date if specified in the consent.

(5) Any shareholder giving a consent may revoke the consent by a writing received by the corporation prior to the time that consents representing the votes required to take the action under this section have been delivered to the corporation but may not do so thereafter.

(6) A consent signed under this section shall have the effect of a meeting vote and may be described as such in any document.

(7) Prompt notice of the taking of any action by shareholders without a meeting under this section by less than unanimous written consent shall be given to those shareholders entitled to vote on the action who have not consented in writing.

(8) If this chapter requires that notice of proposed action be given to nonvoting shareholders and the action is to be taken by consent of the voting shareholders under this section, the corporation shall give its nonvoting shareholders and voting shareholders whose consent is not solicited, written notice of the proposed action at least ten (10) days before the action is taken. The notice shall contain or be accompanied by the same material that, under this chapter, would have been required to be sent to nonvoting shareholders in a notice of meeting at which the proposed action would have been submitted to the shareholders for action.

Section 16. KRS 271B.7-220 is amended to read as follows:

(1) A shareholder may vote his ***or her*** shares in person or by proxy.

(2) A shareholder***, or his or her agent or attorney-in-fact,*** may appoint a proxy to vote or otherwise act for ***the shareholder***[~~him~~] by signing an appointment form ***or by an electronic transmission. An electronic transmission shall contain, or be accompanied by, information from which one can determine that the shareholder, the shareholder's agent, or the shareholder's attorney-in-fact authorized the electronic transmission***[~~, either personally or by his attorney-in-fact. For purposes of this section and KRS 271B.7-240, a telegram or cablegram appearing to have been transmitted by the proper person, or a photographic, photostatic, or equivalent reproduction of a writing appointing a proxy shall be deemed to be a sufficient, signed appointment form~~].

(3) An appointment of a proxy shall be effective when ***a signed***[~~the~~] appointment form ***or an electronic transmission of the appointment*** is received by the secretary or other officer or agent authorized to tabulate votes. An appointment shall be valid for eleven (11) months unless a longer period is expressly provided in the appointment form.

(4) An appointment of a proxy shall be revocable[~~ by the shareholder~~] unless the appointment form ***or electronic transmission***[~~conspicuously~~] states that it is irrevocable and the appointment is coupled with an interest. Appointments coupled with an interest include the appointment of:

(a) A pledgee;

(b) A person who purchased or agreed to purchase the shares;

(c) A creditor of the corporation who extended it credit under terms requiring the appointment;

(d) An employee of the corporation whose employment contract requires the appointment; or

(e) A party to a voting agreement created under KRS 271B.7-310.

(5) The death or incapacity of the shareholder appointing a proxy shall not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is received by the secretary or other officer or agent authorized to tabulate votes before the proxy exercises his authority under the appointment.

(6) An appointment made irrevocable under subsection (4) of this section shall be revocable when the interest with which it is coupled is extinguished. The revocation of an appointment under this subsection shall not be effective until the secretary of the corporation has received written notice of the revocation.

(7) A transferee for value of shares subject to an irrevocable appointment may revoke the appointment if he did not know of its existence when he acquired the shares and the existence of the irrevocable appointment was not noted conspicuously on the certificate representing the shares or on the information statement for shares without certificates.

(8) Subject to KRS 271B.7-240 and to any express limitation on the proxy's authority ***stated in***[~~appearing on the face of~~] the appointment form ***or electronic transmission***, a corporation shall be entitled to accept the proxy's vote or other action as that of the shareholder making the appointment.

Section 17. KRS 271B.7-240 is amended to read as follows:

(1) If the name signed on ***or submitted with*** a vote, consent, waiver, or proxy appointment corresponds to the name ***or electronic signature*** of a shareholder, the corporation if acting in good faith shall be entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the shareholder. For purposes of this section, a telegram or cablegram appearing to have been transmitted by the proper person, or a photographic, photostatic, or equivalent reproduction of a writing appointing a proxy may be accepted by the corporation if acting in good faith, as a sufficient, signed appointment form.

(2) If the name signed on ***or submitted with*** a vote, consent, waiver, or proxy appointment does not correspond to the name ***or electronic signature*** of its shareholder, the corporation if acting in good faith shall nevertheless be entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the shareholder if:

(a) The shareholder is an entity and the name signed purports to be that of an officer or agent of the entity;

(b) The name signed purports to be that of an administrator, executor, guardian, or conservator representing the shareholder and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment;

(c) The name signed purports to be that of a receiver or trustee in bankruptcy of the shareholder and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment;

(d) The name signed purports to be that of a pledgee, beneficial owner, or attorney-in-fact of the shareholder and, if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the shareholder has been presented with respect to the vote, consent, waiver, or proxy appointment; or

(e) Two (2) or more persons are the shareholder as cotenants or fiduciaries and the name signed purports to be the name of at least one (1) of the co-owners and the person signing appears to be acting on behalf of all the co-owners.

(3) The corporation shall be entitled to reject a vote, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the shareholder ***or, in the case of an electronic record, to affix the shareholder's electronic signature to the electronic record***.

(4) The corporation and its officer or agent who accepts or rejects a vote, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section ***or subsection (2) of Section 16 of this Act*** shall not be liable in damages to the shareholder for the consequences of the acceptance or rejection.

(5) Corporate action based on the acceptance or rejection of a vote, consent, waiver, or proxy appointment under this section ***or subsection (2) of Section 16 of this Act*** shall be valid, unless a court of competent jurisdiction determines otherwise.

(6) Shares standing in the name of another corporation, domestic or foreign, may be voted by either the president of such corporation or by proxy appointed by him, unless the board of directors of such other corporation authorizes another person to vote such shares.

(7) Shares held by an administrator, executor, guardian, or conservator may be voted by him, either in person or by proxy, without a transfer of such shares into his name. Shares standing in the name of a trustee may be voted by him, either in person or by proxy, but no trustee shall be entitled to vote shares held by him without a transfer of such shares into his name.

(8) Where shares are held jointly by three (3) or more fiduciaries acting under an instrument becoming effective after June 30,

1946, the will of the majority of such fiduciaries shall control the manner of voting or the giving of a proxy, unless the instrument or order appointing the fiduciaries otherwise directs. Where, in any case, fiduciaries are equally divided upon the manner of voting shares jointly held by them, any court of competent jurisdiction may, upon petition filed by any of the fiduciaries, or by any beneficiary, appoint an additional person to act with the fiduciaries in determining the manner in which the shares shall be voted upon the particular questions as to which the fiduciaries are divided.

(9) Shares standing in the name of a receiver may be voted by such receiver, and shares held by or under the control of a receiver may be voted by such receiver without the transfer thereof into his name if authority so to do be contained in an appropriate order of the court by which such receiver was appointed.

(10) A shareholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the share so transferred.

Section 18. KRS 271B.7-280 is amended to read as follows:

(1) Unless otherwise provided in the articles of incorporation, directors are elected by a plurality of votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present. A "plurality" means that the individuals with the largest number of votes are elected as directors up to the maximum number of directors to be chosen at the election.

(2) Shareholders do not have the right to cumulate their votes for directors unless the articles of incorporation so provide~~[At each election for directors each shareholder entitled to vote at such election shall have the right to cast, in person or by proxy, as many votes in the aggregate as he shall be entitled to vote under the corporation's articles of incorporation, multiplied by the number of directors to be elected at such election; and each shareholder may cast the whole number of votes for one (1) candidate, or distribute such votes among two (2) or more candidates. Such directors shall not be elected in any other manner]~~.

(3) A statement included in the articles of incorporation that "all, or a designated group of, shareholders are entitled to cumulate their votes for directors," or words of similar import, means that the shareholders designated are entitled to multiply the number of votes they are entitled to cast by the number of directors for whom they are entitled to vote and cast the product for a single candidate or distribute the product among two (2) or more candidates.

Section 19. KRS 271B.8-080 is amended to read as follows:

(1) The shareholders may remove one (1) or more directors with or without cause, unless the articles of incorporation provide that directors may be removed only for cause.

(2) If a director is elected by a voting group of shareholders, only the shareholders of that voting group may participate in the vote to remove him ***or her***.

(3) ***If cumulative voting is authorized, a director shall not be removed if the number of votes sufficient to elect him or her under cumulative voting is voted against his or her removal. If cumulative voting is not authorized, a director shall be removed only if the number of votes cast to remove him or her exceeds the number of votes cast not to remove him or her***~~[A director may not be removed if the number of votes sufficient to elect him under cumulative voting is voted against his removal]~~.

(4) A director shall be removed by the shareholders only at a meeting called for the purpose of removing him ***or her*** and the meeting notice shall state that the purpose, or one (1) of the purposes, of the meeting is removal of the director.

Section 20. KRS 271B.8-250 is amended to read as follows:

(1) Unless ***this chapter,*** the articles of incorporation***,*** or ***the*** bylaws provide otherwise, a board of directors may create one (1) or more committees and appoint ***one (1) or more*** members of the board of directors to serve on ***any such committee***~~[them. Each committee shall have two (2) or more members, who serve at the pleasure of the board of directors]~~.

(2) ***Unless this chapter provides otherwise,*** the creation of a committee and appointment of members to it shall be approved by the greater of:

  (a) A majority of all the directors in office when the action is taken; or

  (b) The number of directors required by the articles of incorporation or bylaws to take action under KRS 271B.8-240.

(3) KRS 271B.8-200 to 271B.8-240~~[, which govern meetings, action without meetings, notice and waiver of notice, and quorum and voting requirements of the board of directors,]~~ shall apply ***both*** to committees ***of the board*** and ***to*** their members as well.

(4) To the extent specified by the board of directors or in the articles of incorporation or bylaws, each committee may exercise the ***powers***~~[authority]~~ of the board of directors under KRS 271B.8-010.

(5) A committee shall not, however:

  (a) Authorize ***or approve*** distributions***, except according to a formula or method, or within limits, prescribed by the board of directors***;

  (b) Approve or propose to shareholders action that this chapter requires be approved by shareholders;

  (c) Fill vacancies on the board of directors or***, subject to the provisions of subsection (7) of this section,*** on any of its committees; ***or*** (d)[~~Amend articles of incorporation pursuant to KRS 271B.10-020;~~

~~(e)~~] Adopt, amend, or repeal bylaws[~~;~~

~~(f) Approve a plan of merger not requiring shareholder approval;~~

~~(g) Authorize or approve reacquisition of shares, except according to a formula or method prescribed by the board of directors; or~~

~~(h) Authorize or approve the issuance or sale or contract for sale of shares, or determine the designation and relative rights, preferences, and limitations of a class or series of shares, except that the board of directors may authorize a committee (or a senior executive officer of the corporation) to do so within limits specifically prescribed by the board of directors~~].

(6) The creation of, delegation of authority to, or action by a committee shall not alone constitute compliance by a director with the standards of conduct described in KRS 271B.8-300.

(7) The board of directors may appoint one (1) or more directors as alternate members of any committee to replace any absent or disqualified member during the member's absence or disqualification. Unless the articles of incorporation, the bylaws, or the resolution creating the committee provide otherwise, in the event of the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting may unanimously appoint another director to act in place of the absent or disqualified member.

SECTION 21. A NEW SECTION OF KRS CHAPTER 271B IS CREATED TO READ AS FOLLOWS:

(1) If the board of directors is authorized to determine the place of an annual or special meeting of shareholders, the board of directors, in its sole discretion, may determine that the meeting shall not be held at any place but shall instead be held solely by means of remote communication under subsection (2) of this section.

(2) If authorized by the board of directors in its sole discretion, and subject to such guidelines and procedures as the board of directors may adopt, shareholders and proxyholders not physically present at a meeting of shareholders may by means of remote communication:

(a) Participate in a meeting of shareholders; and

(b) Be deemed present in person and vote at a meeting of shareholders, whether such meeting is to be held at a designated place or solely by means of remote communication, if:

1. The corporation implements reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a shareholder or proxyholder;

2. The corporation implements reasonable measures to provide shareholders and proxyholders referred to in subparagraph 1. of this paragraph a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with the proceedings; and

3. The corporation records any vote or other action taken at the meeting by a shareholder or proxyholder by means of remote communication. The corporation shall maintain as a record the recorded vote or other action taken.

Section 22. Sections 10, 11, 15, 18, and 19 of this Act shall take effect November 15, 2002, if a constitutional amendment proposing to amend Sections 190, 191, 192, 193, 194, 195, 198, 200, 202, 203, 205, 207, and 208 of the Constitution of Kentucky relating to corporations is enacted by the General Assembly and approved by the voters in the November, 2002 general elections. Otherwise, Sections 10, 11, 15, 18, and 19 of this Act shall be void.

Motions, Petitions, and Communications (Continued)

Representative R. Adams moved the adoption of the following **HR 230**:

HR 230, A RESOLUTION adjourning the House of Representatives in honor of Catherine Sue Rupard Helburn upon the occasion of her ninetieth birthday.

WHEREAS, Catherine Sue Rupard Helburn was born on March 14, 1902, a native of Winchester, Clark County, Kentucky, and longtime resident of Eminence, Henry County, Kentucky; she is the devoted wife of her loving husband, Jack Helburn, and she is the adored mother of two daughters, Ann Helburn Hancock of Frankfort, and Betty Helburn Larson of Lexington; and she is the proud grandmother of five grandchildren and three great-grandchildren; and

WHEREAS, Catherine Sue Rupard Helburn completed her formal schooling in the Clark County Elementary and Secondary Schools, and upon graduation from high school, she began her teaching career in the small community of Trapp, teaching in the Clark County school system from 1931 to 1938, after which time she moved to Eminence, where she taught in the Eminence Independent School system from 1938 until 1972, and during this time, she attended the University of Kentucky, graduated from Transylvania College, and earned her Masters Degree in Education at Georgetown College; and

WHEREAS, Catherine Sue Rupard Helburn's accomplishments as an educator were exemplified by her professionalism in the classroom, and she is fondly remembered by her students as a dedicated and caring teacher; she taught school for twenty-nine years, retiring in 1972, and she frequently reminisces about many of the children she taught and the love she still has for them; and

WHEREAS, Catherine Sue Rupard Helburn is an avid University of Kentucky football and basketball fan, and she helped cheer the "Cats" to victory when they played the University of Florida on March 2, 2002; she remains energetic and active in her day-to-day activities, and she is widely acclaimed for her delectable pecan cake and delightful pickles; and

WHEREAS, Catherine Sue Rupard Helburn will be ninety years young on March 14, 2002, and to show their appreciation and love, her family and friends are planning a reception in her honor at Spindletop Hall in Lexington, Kentucky, on March 16, 2002;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby applaud and congratulate Catherine Sue Rupard Helburn upon the glorious occasion of her ninetieth birthday on March 14, 2002, and wishes her many more birthdays to come, and success in all future endeavors.

Section 2. When the House of Representatives adjourns this day, March 14, 2002, it does so in honor of Catherine Sue Rupard Helburn upon the occasion of her ninetieth birthday.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Honorable C. M. "Hank" Hancock, our friend and colleague, for presentation to his wonderful mother-in-law, Catherine Sue Rupard Helburn.

There being no objection **HR 230** was adopted.

Representative Haydon moved the adoption of the following **HR 231**:

HR 231, A RESOLUTION adjourning the House of Representatives in honor of Louis B. "Bert" Ballard.

WHEREAS, it seems appropriate from time to time for this honorable body to reflect upon the contributions of special Kentuckians who have enriched the lives of so many people; and

WHEREAS, Louis B. "Bert" Ballard, a native of Bardstown, Nelson County, Kentucky, attended Bethlehem Academy and graduated from St. Joseph Preparatory School in Bardstown, and he received his B. A. degree from Bellarmine College; and

WHEREAS, Louis B. "Bert" Ballard was the general manager of The Stephen Foster Story for twenty-eight consecutive years until his retirement in 1991, and it was through his dedication and tireless efforts that the outdoor drama received national recognition, and has become synonymous with the Kentucky Derby, mint juleps, and our Commonwealth's famous ballad and anthem, "My Old Kentucky Home," which was composed by Stephen Foster; and

WHEREAS, throughout the years, Louis B. "Bert" Ballard has promoted tourism in Kentucky, successfully working with Kentucky's Governors and Commissioners of Parks to upgrade and enhance My Old Kentucky Home State Park, and he is fondly remembered for the enthusiasm and pride he demonstrated while promoting Bardstown's famous musical; and

WHEREAS, Louis B. "Bert" Ballard is an esteemed member of the Nelson County community where he has served on many committees and boards, including St. Joseph Parish Council, Bethlehem High School, St. Joseph Preparatory Alumni Association, Spalding Hall Civic Center board, St. Catherine College Board of Trustees, and the Bardstown Mayor's Advisory Council; and he has also served on numerous civic and governmental agencies, as director of the Kentucky Chamber of Commerce, the Governor's Advisory Commission on Tourism, the Governor's Task Force on Parks Development, and the Lincoln Heritage Trail Executive Commission; he is a charter member of the Hotel-Motel Sales Association, and a charter member of the International Association of Travel Exhibitors, and he is a member of Council 1290 Knights of Columbus and Post 121 of the American Legion; and

WHEREAS, Louis B. "Bert" Ballard is the recipient of the First Annual Mark Sumner Award by the Institute of Outdoor Drama, the first Kentucky Tourism Federation Distinguished Service award, Bardstown-Nelson County Tourism Award of Distinction, City of Louisville Ambassador of Goodwill, Kentucky Colonels Certificate of Appreciation, and he is a member of the Bardstown-Nelson County Chamber of Commerce Hall of Fame; and

WHEREAS, Louis B. "Bert" Ballard epitomizes the heart and soul of Kentuckians; he is a unique individualist who has always displayed a special touch of compassion with a spirit of concern and respect for his fellow man, his abiding love for family and friends, and his strong sense of patriotism for his country;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body is indeed proud and honored to recognize Louis B. "Bert" Ballard, who has been a source of invincible strength to all the people who have been fortunate to know him. We applaud him for his many accomplishments, and thank him for his service to this great Commonwealth.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Louis B. "Bert" Ballard, our native son.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Jodie Haydon for presentation to Mr. Louis B. "Bert" Ballard, and a copy to L. Darryl Armstrong, Armstrong and Associates, 455 Hillside Trail, Eddyville, Kentucky 42038.

There being no objection **HR 231** was adopted.

Representative Brinkman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Brinkman moved that he be recorded as voting "yea" on **HB 650**. Agreed.

Representative Smith moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Smith moved that his vote be changed from "nay" to "yea" on **HB 618**. Agreed.

Representative Meeks moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Meeks moved that he be recorded as voting "nay" on the Senate Committee Substitute to **HB 314**. Agreed.

Representative Meeks moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Meeks moved that he be recorded as voting "yea" on **HB 650, HB 685, HB 633, HB 656, HB 749, HB 759, HB 775, HB 792, HB 809, HB 75, HB 681, HB 686, HB 829, HB 618, HB 32, HJR 160, HCR 184,** and **HCR 158**. Agreed.

Recess

Representative Stumbo moved that the House recess until 6:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to the Committee Substitute to **HJR 205**, by Representative Palumbo:

On page 3, line 10, by deleting the word "and" the second time it appears; and

On page 3, line 11, by deleting the period and inserting ";and" in lieu thereof; and

On page 3, after line 11, by inserting the following:

"(15) The president of the Kentucky Chapter of the National Adult Family Care Organization.".

Floor Amendment No. 2 to the Committee Substitute to **HB 507**, by Representative Coleman:

On page 62, by deleting lines 22 and 23 in their entirety.

Floor Amendment No. 1 to the Committee Substitute to **HB 507**, by Representative Siler:

On page 57, line 4, delete "313,131,100" and insert “313,431,100” in lieu thereof;

On page 57, line 4, delete "317,503,800" and insert “317,803,800” in lieu thereof;

On page 57, line 7, delete "1,298,324,600" and insert “1,298,624,600” in lieu thereof;

On page 57, line 7, delete "1,318,811,400" and insert “1,319,111,400” in lieu thereof;

On page 57, between lines 10 and 11, insert the following language:

“Included in the above General Fund appropriation is $300,000 in Fiscal Year 2002-2003 and $300,000 in Fiscal Year 2003-2004 for medical residency training positions at Corbin and Morehead.”

On page 59, line 17, delete "1,134,260,700" and insert “1,134,560,700” in lieu thereof;

On page 59, line 17, delete "1,216,517,600" and insert “1,216,817,600” in lieu thereof;

On page 59, line 20, delete "3,323,583,300" and insert "3,323,883,300" and delete "3,480,854,700" and insert "3,481,154,700."

On page 180, between lines 18 and 19, insert the following:

"19.	Coal Workers' Pneumoconiosis Fund (KRS 342.1223 through 342.1241)"	300,000	300,000

Floor Amendment No. 4 to the Committee Substitute to **HB 507**, by Representative Yonts:

On page 232, after line 22, insert the following:

"g. Realignment of Muhlenberg County Highway Project: The description of Project number 2-134, for Muhlenberg County, within the 2002-04 Biennial Highway Plan, shall be amended to read as follows: Construct new interchange at the Western Kentucky Parkway and Ky-175 near Graham. ($500,000 of coal severance tax money has been earmarked for this project.) Amend project number 2-134 to include state project allocation of $3,800,000 in fiscal year 2002-2003. Add to the 2002-04 Biennial Highway Plan, Project number 2-8106 for Muhlenberg County. The description of Project number 2-8106 shall read as follows: Scoping study for Phase 1: Four laning US 431 from the McLean/Muhlenberg County Line to the Tennessee Border and Phase 2: Four laning US 431 from the Mclean/Muhlenberg County Line to the Indiana Border. The State Project allocation of $300,000 shall be transferred from project 2-134 in fiscal year 2002-2003 to support project number 2-8106."

Floor Amendment No. 5 to the Committee Substitute to **HB 507**, by Representative Yonts:

On page 78, after line 7 and before line 8, insert the following:

"11. Muhlenberg County - Construction of Interstate Ramp at Highway 175 and Western Parkway at Graham

(Reauthorization and Reallocation ($200,000 - Restricted Funds)

The project cited immediately above is authorized from a reallocation of the available balance of the Muhlenberg County - Construction of Interstate Ramp at Highway 175 and Western Parkway at Graham Project appropriated by the 2000 General Assembly in the amount of $500,000 in Restricted Funds (2000 Ky Acts, ch. 549, Part II, S. Coal Severance Projects, (1) Government Operations, item number 175, Muhlenberg County - Construction of Interstate Ramp at Highway 175 and Western Parkway at Graham.) In accordance with the provisions of Capital Projects Budget Provisions for Part II, Capital Projects, 1. of this Act, this project is reauthorized and $200,000 is reallocated to the City of Greenville to provide for a mini park/green space between the existing court house and the new Judicial Center and for new sidewalks and curbing around the judicial center being constructed in Muhlenberg County, Greenville, Kentucky."; and

By renumbering subsequent sections accordingly.

Floor Amendment No. 3 to the Committee Substitute to **HB 507**, by Representative Vincent:

On page 17, line 16, delete "increase the" and insert "promulgate administrative regulations concerning"; and

On page 17, lines 16 to 17, delete "necessary to provide for the enacted budget expenditure level".

Floor Amendment No. 6 to the Committee Substitute to **HB 507**, by Representative Nunn:

On page 177 after line 17, by inserting the following:

"34. Notwithstanding the provisions of KRS 139.340, a commercial printer or mailer engaged in business in this state shall not be required to collect use tax on sales of printing or direct mail advertising materials that are both printed out of state and delivered out of state to the United States Postal Service for mass mailing to third party Kentucky residents who are not purchasers of the advertising materials if the commercial printers or mailers:

(a) Maintain records relating to these sales to assist in the collection of the use tax owed; and

(b) File reports as provided in KRS 139.730 if requested by the Revenue Cabinet.

If the commercial printer or mailer complies with these reporting provisions, the purchaser of the printing or direct mail advertising materials described in this section shall have sole responsibility for payment of the use tax imposed in KRS 139.310.".

Floor Amendment No. 7 to the Committee Substitute to **HB 507**, by Representative Colter:

On page 52, line 26, delete "101,354,300" and insert "101,064,300" in lieu thereof;

On page 52, line 26, delete "137,665,800" and insert "137,366,800" in lieu thereof;

On page 53, line 2, delete "118,246,800" and insert "118,217,800" in lieu thereof;

On page 53, line 2, delete "150,989,700" and insert "150,690,700" in lieu thereof;

On page 59, line 4, delete "189,722,700" and insert "190,012,700" in lieu thereof;

On page 59, line 4, delete "195,194,000" and insert "195,493,930" in lieu thereof;

On page 59, line 7, delete "435,345,100" and insert "435,635,100" in lieu thereof;

On page 59, line 7, delete "452,379,500" and insert "452,687,500" in lieu thereof;

On page 59, between lines 10 and 11, insert the following language:

"Included in the above General Fund appropriation is $290,000 in Fiscal Year 2002-2003 and $299,000 in fiscal Year 2003-2004 to support program operations at the Leslie County Center for Hazard Community College."

Floor Amendment No. 8 to the Committee Substitute to **HB 507**, by Representative Wayne:

On page 177, between lines 17 and 18, insert the following:

"34. No moneys appropriated in this Act shall be expended on the execution of a person sentenced to death, nor shall the expenditures for such action be deemed a necessary governmental expense. No agency of the Commonwealth shall solicit or accept funds from any source, public or private, to carry out an execution. The Governor is encouraged to delay any executions already scheduled until after the expiration of this Act and the Governor is further encouraged to not schedule any new execution until after the expiration of this Act."

Floor Amendment No. 9 to the Committee Substitute to **HB 507**, by Representative Wayne:

On page 177, between lines 17 and 18, insert the following:

"34. No moneys appropriated in this Act shall be expended on the execution of a person whose trial commenced prior to July 13, 1990 and who was determined to be mentally retarded, as defined by KRS 532.130, at the time of the commission of the offense or who has subsequently been determined to be to be mentally retarded at the time of the commission of the offense, nor shall the expenditures for such action be deemed a necessary governmental expense. No agency of the Commonwealth shall solicit or accept funds from any source, public or private, to carry out an execution. The Governor is encouraged to delay any executions already scheduled until after the expiration of this Act and the Governor is further encouraged to not schedule any new execution until after the expiration of this Act."

Floor Amendment No. 10 to the Committee Substitute to **HB 507**, by Representative Wayne:

On page 177, between lines 17 and 18, insert the following:

"34. No moneys appropriated in this Act shall be expended on the execution of a person sentenced to death, who was 16 or 17 at the time of the commission of the offense, nor shall the expenditures for such action be deemed a necessary governmental expense. No agency of the Commonwealth shall solicit or accept funds from any source, public or private, to carry out an execution. The Governor is encouraged to delay any executions already scheduled until after the expiration of this Act and the Governor is further encouraged to not schedule any new execution until after the expiration of this Act."

Floor Amendment No. 11 to the Committee Substitute to **HB 507**, by Representative J. Turner:

On page 143, between lines 4 and 5, insert the following and renumber accordingly:

" 84. Harlan County Parks - Provide $5,000 for each of the following Parks - Pathfork Park, Baxter Park, Green Hills Park, Coxton Park, Brookside Park, Black Mountain Park, Yocum Creek Park, Kenvir Park, Highsplint Park, Holmes Mill Park, Blair Park, Cumberland Rotary Park, Benham Park, Benham Coal Museum Park, Two Parks in Lynch, Portal 31 at Lynch, Dressin Park, Gulston/Mary Alice Park, Smith Park, Cawood Park, Martins Fork Recreation, Stone Mountain Boat Dock, Wallins Fellowship Center, Loyall Recreation Center, Totz Park, Harlan Shrine Club for Putney Parks, and Louellen Park

Restricted Funds 135,000

85. Harlan County Park Development - Provide $7,500 for each of the following areas - Coldiron, Dayhoit/Fresh Meadows, Molus, Dion, Shields, and Cranks

Restricted Funds 45,000

86. Harlan County Park Development - Bledsoe/Big Laurel

Restricted Funds 15,000

87. City of Harlan - Downtown Revitalization Program

Restricted Funds 20,000

88. Fire Department Equipment - Provide $7,000 for each of the following volunteer fire departments - Holmes Mill, Yocum Creek, Lower Clover Fork, Bledsoe, Putney, Wallins, Coldiron, Sunshine, Martins Fork, Evarts, Loyall, Upper Cloverfork, and Benham

Restricted Funds 91,000

89. River Ridge - Study for sewage plant

Restricted Funds 5,000

90. Evarts Train Depot - Renovation of building

Restricted Funds 10,000

91. Bledsoe Community Center - Construction of building

Restricted Funds 20,000

92. Cranks Volunteer Fire Department - Start-up expenses

Restricted Funds 15,000

93. The Laurels Inc. - Renovation

Restricted Funds 40,000

94. Harlan County Fiscal Court - Garage Building

Restricted Funds 40,000

95. Harlan County Fiscal Court - Backhoe, truck and vehicle purchases

Restricted Funds 45,000

96. Harlan County Fiscal Court - Provides $5,000 for each of the following rescue squads - Harlan, Cloverfork and Tri-City

Restricted Funds 15,000

97. City of Loyall - Purchase of equipment for water/sewer services, and fire protection

Restricted Funds 20,000

98. City of Wallins - Purchase of equipment for water/sewer services, and fire protection

Restricted Funds 20,000

99. City of Benham - Purchase of equipment for water/sewer services, and fire protection

Restricted Funds 20,000

100. City of Harlan - Little League

Restricted Funds 5,000

101. City of Cumberland - Purchase or construction of a Tourism Welcome and Information Center for the Appalachian Fronteer Homestead

Restricted Funds 17,000

102. City of Cumberland - Purchase of equipment for water/sewer services, and fire protection

Restricted Funds 20,000

103. City of Lynch - Purchase of equipment for water/sewer services, and fire protection

Restricted Funds 20,000

104. City of Evarts - Purchase of equipment for water/sewer services, and fire protection

Restricted Funds 25,000

105. City of Harlan - Purchase of equipment, renovation, installation or extension of water, sewer lines, and /or fire protection

Restricted Funds 20,000

106. Cawood Ledford Harlan County Boys and Girls Club

Restricted Funds 15,000"

Floor Amendment No. 12 to the Committee Substitute to **HB 507**, by Representative Treesh:

On page 43, line 14, delete "85,372,100" and insert "85,172,100" in lieu thereof, and delete "88,184,700" and insert "87,984,700" in lieu thereof;

On page 43, line 16, delete "30,000,000" in both columns and insert "30,200,000" in both columns in lieu thereof;

On page 69, line 11, delete "$37,00,000" and insert "$36,800,000" in lieu thereof;

On page 69, line 12, delete "$37,740,000" and insert "$37,540,000" in lieu thereof;

On page 177, between lines 17 and 18, insert the following:

"34. Notwithstanding KRS 18A.225, Part V of this Act, or any other law to the contrary, any funds in flexible spending accounts of employees of local school district 145 that remain after all reimbursements have been processed shall remain in local school district 145, but only if those funds are used to provide additional, equitable health benefits, such as employee assistance or wellness programs, to all employees of the district.";

On page 178, line 25, after the period, insert the following:

"The amount transferred from the flexible spending account under item 17 shall be reduced by any amount remaining in local school district 145 in accordance with Part III of this Act."; and

Adjust all subtotals and totals accordingly.

Floor Amendment No. 13 to the Committee Substitute to **HB 507**, by Representative Treesh:

On page 43, line 14, delete "85,372,100" and insert "71,372,100" in lieu thereof, and delete "88,184,700" and insert "74,184,700" in lieu thereof;

On page 43, line 16, delete "30,000,000" in both columns and insert "44,000,000" in both columns in lieu thereof;

On page 69, line 11, delete "$37,00,000" and insert "$23,000,000" in lieu thereof;

On page 69, line 12, delete "$37,740,000" and insert "$23,740,000" in lieu thereof;

On page 177, between lines 17 and 18, insert the following:

"34. Notwithstanding KRS 18A.225, Part V of this Act, or any other law to the contrary, any funds in flexible spending accounts of employees of local school districts that remain after all reimbursements have been processed shall remain in the respective local school district, but only if those funds are used to provide additional, equitable health benefits, such as employee assistance or wellness programs, to all employees of the district.";

On page 178, line 25, after the period, insert the following:

"The amount transferred from the flexible spending account under item 17 shall be reduced by any amount remaining in the local school districts in accordance with Part III of this Act."; and

Adjust all subtotals and totals accordingly.

Floor Amendment No. 1 to the Committee Substitute to **SB 141**, by Representative Ford:

On page 1, after line 13 by adding the following:

"Section 2. KRS 15.440 is amended to read as follows:

Each local unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:

(1) Employs one (1) or more police officers;

(2) Pays every police officer at least the minimum federal wage;

(3) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky Law Enforcement Council, for employment of police officers on or after July 1, 1972, and for all sheriffs appointed or elected on or after July 15, 1998, and all deputy sheriffs, and state or public university police officers employed after July 15, 1998; provided, however, that all police officers employed prior to July 1, 1972, shall be deemed to have met the requirements of this subsection, and that all sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to July 15, 1998 shall be deemed to have met the requirements of this subsection;

(4) Requires all police officers employed on or after July 1, 1972, and all sheriffs appointed or elected on or after July 15, 1998, and deputy sheriffs, and state or public university police officers employed on or after January 1, 1998, to successfully complete a basic training course of at least six hundred forty (640) hours' duration within one (1) year of the date of employment at a school certified or recognized by the Kentucky Law Enforcement Council. All sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to January 1, 1998, shall be deemed to have met the requirements of this subsection. The council may, by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, set the number of hours for basic training at a number higher than six hundred forty (640) hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis;

(5) Requires all police officers, whether originally employed before or after July 1, 1972, and all sheriffs appointed or elected before, on, or after July 15, 1998, and all deputy sheriffs and state or public police officers employed before, on, or after July 15, 1998, to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least forty (40) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council;

(6) Requires compliance with all provisions of law applicable to local police, state or public university police, or sheriffs and their deputies, including transmission of data to the centralized criminal history record information system as required by KRS 17.150;

(7) Requires compliance with all reasonable rules and regulations, appropriate to the size and location of the local police department, state or public university police department, or sheriff's office, issued by the Justice Cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;

(8) Provided, however, that no local unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund unless the local police department, state or public university police department, or sheriff's office actually begins and continues to comply with the requirements of this section; provided, further, that no local unit shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund until the local police department, state or public university police department, or sheriff's office has substantially complied with subsections (6) and (7) of this section.

(9) If a police chief, in a city with a population of two thousand (2,000) or less, who is a non-elected officer, chooses not to participate in the program, that fact shall not preclude that local government from participating in the fund and shall not preclude the qualified police officers in that department from participating in the fund and receiving a salary supplement.".

Floor Amendment No. 1 to **HB 61**, by Representative Denham:

On page 7, line 13, after "***agricultural***" by inserting "***and equine***".

Floor Amendment No. 1 to the Committee Substitute to **HCR 136**, by Representative Yonts:

On page 1, by deleting "and" at the end of the fourth WHEREAS clause; and

On page 1, before the last WHEREAS clause, by inserting the following:

"WHEREAS, the issues identified herein relating to health care malpractice insurance premiums are also pertinent to professional liability insurance premiums for nursing homes and other long term health care facilities; and"; and

On page 2, line 25, after "force" by inserting ", including, but not limited to, professional liability insurance for nursing homes and other long term health care facilities"; and

On page 3, line 16, after "force" by inserting ", including, but not limited to, professional liability insurance for nursing homes and other long term health care facilities".

Floor Amendment No. 2 to the Committee Substitute to **HB 668**, by Representative Palumbo:

On page 1, line 21, after "***to***" by deleting "***:***" and inserting "***the cause or responsibility for fires and explosions;***"; and

On page 1, by deleting lines 22 through 25 in their entirety; and

On page 2, by deleting lines 1 through 5 in their entirety; and

On page 2, line 15, after "***shall***" by adding "***practice private fire and explosion investigating,***"; and

On page 2, line 16, after "***investigator***" by adding "***,***"; and

On page 16, by deleting lines 7 and 8 in their entirety; and

On page 16, line 9, by deleting "***(2)***" and inserting "***(1)***" in lieu thereof; and

On page 16, line 9, by deleting "***A state or local peace officer or government employee***" and inserting "***An officer or employee of the United States, this state, or any political subdivision thereof,***"; and

On page 16, by deleting lines 10 and 11 in their entirety; and

On page 16, line 12, by deleting "***(4)***" and inserting "***(2)***" in lieu thereof; and

On page 16, line 13, after "***law;***" by adding "***or***"

On page 16, line 14, by deleting "***(5)***" and inserting "***(3)***" in lieu thereof; and

On page 16, line 17, after "***explosion***" by deleting "***; or***" and inserting "***.***" in lieu thereof; and

On page 16, by deleting lines 18 and 19 in their entirety.

Floor Amendment No. 3 to the Committee Substitute to **HB 668**, by Representative Palumbo:

On page 16, lines 16 and 17, delete "***other than investigations into the cause or origin of a fire or explosion; or***" and insert "***or making a determination with regard to the cause or origin of fires that do not require an investigation by an agent or employee of the company. However, any person or agent conducting an investigation of a fire scene on behalf of an insurance company shall be required to be licensed pursuant to this chapter; or***" in lieu thereof.

Floor Amendment No. 14 to the Committee Substitute to **HB 507**, by Representative J. Turner:

On page 141, line 26, delete "500,000" and insert "470,000" in lieu thereof;

On page 142, line 6, delete "300,000" and insert "285,000" in lieu thereof;

On page 143, between lines 4 and 5, insert the following item for fiscal year 2002-03and renumber subsequent sections:

" 84. Cloverfork Verda Community Center
Restricted Funds 45,000"

Floor Amendment No. 15 to the Committee Substitute to **HB 507**, by Representative Smith:

On page 155, between lines 16 and 17, insert the following item for fiscal year 2002-2003 and renumber subsequent sections:

" 189. Hazard Community College -
Completion of the 1st Federal Building
Restricted Funds 88,000"

Floor Amendment No. 1 Title to **HB 842**, by Representative Weaver:

Amend the title to read as follows: "AN ACT relating to elder abuse."

Floor Amendment No. 16 to the Committee Substitute to **HB 507**, by Representative J. Lee:

On page 238, line 23, after "Program;" insert "$1,000,000 each fiscal year for Early Childhood Mental Health";

On page 239,between lines 5 and 6, insert "Funds in the amount of $1,000,000 in each fiscal year transferred from the Kentucky Agency for Substance Abuse Policy to the Department for Public Health shall be used for Early Childhood Mental Health";

On page 240, line 2, after "is", delete "$1,844,100" and insert in lieu thereof "$844,100";

On page 240, line 3, delete "$1,489,300" and insert in lieu thereof "$489,300";

On page 240, line 8, after "system.", insert "Included in the above appropriation is $1,000,000 in fiscal year 2003-2004 to be transferred to the Department for Public Health to provide for Early Childhood Mental Health."

Floor Amendment No. 7 to **HB 576**, by Representative Thomas:

On page 6, line 23, delete "***12***" and insert in lieu thereof "***11***"; and

On page 8, after line 10, by deleting lines 11 through 23, and by renumbering the remaining sections; and

On page 12, line 22, after "(1)", by inserting "***The governing body of each county may establish by ordinance a dog or kennel licensing program.***"; and

On page 12, line 23, after "***licensing***", by inserting "***program***", and by deleting the remainder of the line; and

On page 12, line 24, through page 13, line 18, by deleting all the new language and by removing all the brackets and strikethroughs, and then by bracketing and striking through all the existing language from page 12, line 24, through page 13, line 18, through "counties"; and

On page 13, line 19, by deleting "***(3)***" and by removing the brackets and strikethroughs from "~~[(2)]~~"; and

On page 13, line 21, after "vaccination", through line 22, by deleting all the new language and by removing all the brackets and strikethroughs, and by then bracketing and striking through ", provided the dog shall be licensed each fiscal year"; and

On page 13, after line 22, by deleting all the language to page 15, line 18, and by renumbering the remaining sections; and

On page 16, line 2, after "***in***", by deleting "***Franklin***", and by inserting in lieu thereof "***the***"; and

On page 16, line 3, after "***Court***", by inserting "***of jurisdiction***", and after the second "***the***", by deleting "***Attorney General***", and by inserting in lieu thereof "***Commonwealth's attorney in that jurisdiction***"; and

On page 17, line 6, after the second "of", by deleting the new language; and

On page 17, line 7, by deleting "***258.500***", by removing the brackets and strikethroughs from "~~[this chapter]~~", and by then bracketing and striking through "this chapter or"; and

On page 17, after line 8, by deleting all the language through line 23, and by renumbering the remaining sections; and

On page 17, beginning on line 25, after the second "***officer***", by deleting "***, or may be taken by any citizen,***"; and

On page 19, line 9, after "***vaccination***", by deleting the new language through "***license***"; and

On page 19, line 10, after "***vaccination***", by deleting "***and state license***"; and

On page 19, line 11, after "***shelter***", by deleting the new language through "***facility***" on line 12; and

On page 20, line 9, after "***258.500***", through line 11, by deleting all the new language and by removing the brackets and strikethroughs, and by then bracketing and striking through the language from line 9, after "***258.500***", through "commissioner" on line 11; and

On page 22, line 22, after "which", by inserting "***is currently licensed***", and by bracketing and striking through "bears a license tag for the current year"; and

On page 25, line 26, after "258.015", by inserting "***and***", and by bracketing and striking through ",", and after "258.135", by bracketing and striking through "and 258.145"; and

On page 26, line 14, after "all", by bracketing and striking through "state and local"; and

On page 27, line 10, after "***violating***", by deleting "***KRS 258.500***", and by inserting in lieu thereof, "***subsections (2), (3), (4), (5), (6), or (12) of Section 22 of this Act***"; and

On page 27, line 15, after ".", by inserting "***No person shall be charged with a violation of subsections (2), (3), (4), (5), (6), or (12) of Section 22 of this Act if the requirements of subsection (8) of Section 22 of this Act are not met.***"; and

On page 35, after line 22, by inserting:

"258.105 Enforcement by commissioner of agriculture--Employment and powers of personnel."; and

On page 35, after line 24, by inserting:

"258.145 Licenses and tags--Tattooing of dogs--Tag to be affixed to collar--Burden of proof of license.
258.155 License for part of year.
258.165 Kennel licenses and tags.
258.175 Dogs to be kept in kennel.
258.185 Records of dog and kennel licenses.
258.205 Dog temporarily in state need not be licensed--Burden of proof."; and

On page 36, after line 11, by inserting the following noncodified language:

"Section 33. Any funds remaining in the Livestock Fund sixty (60) days after the effective date of this Act shall be deposited in the animal control and care fund created by Section 12 of this Act.".

Floor Amendment No. 17 to the Committee Substitute to **HB 507**, by Representative Moberly:

On page 5, line 12, after the parenthesis and before the number "48.705", by entering "KRS";

On page 5, line 15, after the parenthesis and before the number "48.705", by entering "KRS";

On page 30, line 6, by deleting the number "612,139,200", and inserting in lieu thereof "612,239,200";

On page 30, line 9, by deleting the number "1,115,985,400", and inserting in lieu thereof "1,116,085,400";

On page 30, after line 15 and before line 16, by inserting the following:

"Included in the above General Fund appropriation is $100,000 in fiscal year 2003-04 to provide funds for buildings and grounds for local school district number 155."

On page 30, after line 24, and before line 25, by inserting the following:

"Included in the above General Fund appropriation is $1,750,000 in fiscal year 2002-03 and $1,750,000 in fiscal year 2003-04 to support the Community Education program.";

On page 32, line 17, after the words "Included in", by entering the word "the";

On page 33, by deleting lines 2 through 5 in their entirety;

On page 35, line 9, after the phrase "seventy-three cents", by entering the phrase "($.73)";

On page 66, line 2, by deleting the number "29,923,000", and inserting in lieu thereof "30,163,000", and by deleting the number "30,433,000", and inserting in lieu thereof "30,673,000";

On page 66, line 3, by deleting the number "30,330,000", and inserting in lieu thereof "30,570,000", and by deleting the number "30,840,000", and inserting in lieu thereof "31,080,000";

On page 78, after line 7 and before line 8, insert the following:

"11. Breathitt County - Breathitt County High School Fieldhouse
(Reauthorization and Reallocation ($250,000 - Restricted Funds)

The project cited immediately above is authorized from a reallocation of the available balance of the Breathitt County - Breathitt County High School Fieldhouse project appropriated by the 2000 General Assembly in the amount of $250,000 in Restricted Funds (2000 Ky Acts, ch. 549, Part II, S. Coal Severance Projects, (1) Government Operations, item number 14, Breathitt County - Breathitt County High School Fieldhouse). In accordance with the provisions of Capital Projects Budget Provisions for Part II, Capital Projects, 1. of this Act, this project is reauthorized and $250,000 is reallocated to Breathitt County Schools and retitled as 'Breathitt County-Recreational Playing Areas'.";

On page 140 after line 19, and before line 20, by inserting the following:

"Phase VII Expansion Project"

On page 140, line 20, by deleting the number "81,932", and inserting in lieu thereof the number "14,155"; and by deleting the number "31,622", and inserting in lieu thereof the number "99,399";

On page 141, by deleting lines 3, 4, and 5 in their entirety;

On page 145, line 13, by deleting the number "50,000", and inserting in lieu thereof the number "100,000";

On page 152, after line 18 and before line 19, by inserting the following phrase,

"For Purchase of Truck";

On page 152, line 19, by deleting the number "20,000", and inserting in lieu thereof the number "50,000";

On page 152, line 21, by deleting the number "20,000", and inserting in lieu thereof the number "10,000";

On page 152, line 23, by deleting the number "20,000", and inserting in lieu thereof the number "10,000";

On page 154, after line 22 and before line 23, by inserting the following:

"183. Morgan County Fiscal Court -
Morgan County Memory Hill
Restricted Funds 10,000";

On page 157, after line 16 and before line 17, by inserting the following:

"207. Union County - Flood Plain Study
Restricted Funds 60,000

208. Union County - City of Morganfield -
Morganfield Pedestrian Destination: Land
Acquisition, Site Development, Professional
Services
Restricted Funds 371,500"

On page 163, line 10, by deleting the word "monies", by entering the word "moneys";

On page 163, line 21, before the word "member", by entering the number "(1)";

On page 163, line 22, after the word "three", by entering the number "(3)";

On page 163, line 23, after the word "five", by entering the number "(5)";

On page 170, line 1, after the word "two", by entering the number "(2)";

On page 178, line 10, by deleting the phrase "2.7 percent", and inserting in lieu thereof "two and seven tenths percent (2.7%)";

On page 189, line 27, by deleting "Ch.", by inserting in lieu thereof "Chapter";

On page 196, line 14, after the words "the sum of", by entering the words "four dollars";

On page 196, line 16, after the words "2003 and", by entering the words "four dollars";

On page 208, line 13, after the word "Analysis", by deleting the words "and communicated to the", and inserting in lieu thereof a period ".";

On page 208, by deleting lines 14 through 23 in their entirety, and inserting in lieu thereof the following: "No service, eligible, or program reductions shall be implemented by the Cabinet for Health Services without written notice of such action to the Interim Joint Committee on Appropriations and Revenue and the State Budget Director. Such actions taken by the Cabinet for Health Services will be reported, upon request, at the next meeting of the Interim Joint Committee on Appropriations and Revenue. Objections to the actions by the Committee shall be responded to in writing in detail, by the Secretary for Health Services within thirty (30) days of such objections.";

On page 213, line 17, by deleting the words "Department for", and inserting in lieu thereof "Commission for Children with Special Health Care Needs;

On Page 213, line 18, by deleting the phrase "Mental Health/Mental Retardation";

On Page 216, after line 23 and before line 24, by inserting the following,

"c. Green River Correctional Complex - Fencing: The Department of Corrections shall erect a fence around the minimum security facility at the Green River Correctional Complex.";

On page 217, line 17, after the word "sale", by inserting the phrase "or lease";

On page 232, after line 22 and before line 23, by inserting the following:

"The Transportation Cabinet shall amend the FB 2002-04 Biennial Highway Construction Plan to direct that the project description for Project Number 6-8100 in Bracken County be revised to read as follows: Planning Study for reconstruction of KY-10 from Brooksville to Germantown."; and

By renumbering sections and subsections accordingly; and

By adjusting totals and subtotals accordingly.

Floor Amendment No. 18 to the Committee Substitute to **HB 507**, by Representative Palumbo:

On page 199, between lines 10 and 11, insert the following: "Notwithstanding KRS 157.620(5), any school district that did not receive an offer of assistance during the 2000-2002 biennium that resulted from the one hundred million dollar ($100,000,000) authorization by the 2000 General Assembly shall receive an offer of assistance during the 2002-2004 biennium that includes debt service for the district's unmet need based on the facility plan in effect on June 30, 2002, and the unmet need established on June 30, 2003."

Floor Amendment No. 1 to **HB 658**, by Representative Moberly:

On page 1, line 15, delete "159,542,800" and insert in lieu thereof "148,521,200";

On page 1, line 15, delete "173,374,400" and insert in lieu thereof "153,029,200";

On page 1, line 18, delete "172,081,100" and insert in lieu thereof "161,059,500";

On page 1, line 18, delete "186,299,300" and insert in lieu thereof, "165,954,100";

On page 1, line 19, after "provide a" delete "five percent (5%)" and insert in lieu thereof "two and seven tenths percent (2.7%)";

On page 1, line 21, after "a", delete "five percent (5%)" and insert in lieu thereof "two and seven tenths percent (2.7%)";

On page 1, line 22, after "a", delete "five percent (5%)" and insert in lieu thereof "two and seven tenths percent (2.7%)";

On page 2, between lines 6 and 7, insert the following:

" Included in the above appropriation is $125,000 in fiscal year 2002-2003 and $200,000 in fiscal year 2003-2004 to support the Kentucky Legal Education Opportunities Program (KLEO). Participants may be required to meet certain grade point average (GPA) conditions.";

On page 2, line 9, delete "59,063,600" and insert in lieu thereof "49,346,300";

On page 2, line 9, delete "85,349,400" and insert in lieu thereof "57,845,300";

On page 3, line 8, delete "218,606,400" and insert in lieu thereof "197,867,500";

On page 3, line 8, delete "258,723,800" and insert in lieu thereof "210,874,500";

On page 3, line 11, delete "231,144,700" and insert in lieu thereof "210,405,800";

On page 3, line 11, delete "271,648,700" and insert in lieu thereof "223,799,400";

On page 3, line 14, delete "2,500,660" and insert in lieu thereof "2,500,600";

On page 3, line 19, delete "221,107,000" and insert in lieu thereof "200,368,100";

On page 3, line 19, delete "261,243,200" and insert in lieu thereof "213,393,900";

On page 3, line 22, delete "233,645,300" and insert in lieu thereof "212,906,400";

On page 3, line 22, delete "274,168,100" and insert in lieu thereof "226,318,800";

On page 3, delete lines 26 and 27 in their entirety;

On page 4, delete lines 1 through 21 in their entirety;

On page 4, line 22, delete "v." and insert "a." in lieu therof;

On page 4, line 22, after "Space", delete "(Millcreek Park)";

On page 4, line 23, delete "w." and insert "b." in lieu thereof;

On page 4, line 23, after "Appeals", delete "(Democrat Drive)";

On page 4, line 24, delete "x." and insert "c." in lieu thereof;

On page 5, line 5, delete "221,107,000" and insert in lieu thereof "200,368,100";
On page 5, line 5, delete "261,243,200" and insert in lieu thereof "213,393,900";
On page 5, line 8, delete "233,645,300" and insert in lieu thereof "212,906,400"; and
On page 5, line 8, delete "274,168,100" and insert in lieu thereof "226,318,800"; and
Adjust totals and subtotals accordingly.

Floor Amendment No. 19 to the Committee Substitute to **HB 507**, by Representative Cornett:

On page 151, between lines 3 and 4, insert the following item for fiscal year 2002-2003 and renumber subsequent sections:

" 152.	Letcher County - Provide funds to be shared equally among 10 Volunteer Fire Departments	
	Restricted Funds	200,000
153.	Letcher County Parks and Recreation for Jenkins Baseball Park	
	Restricted Funds	100,000
154.	Letcher County Parks and Recreation - Various parks in Letcher County	
	Restricted Funds	100,000
155.	Cumberland Mountain Arts and Craft Council matching grant moneys for the establishment of outdoor drama, "Little Shepherd of Kingdom Come"	
	Restricted Funds	30,000
156.	Letcher County Sanitation for establishing door-to-door recycling	
	Restricted Funds	50,000
157.	Letcher County Expansion of Senior Citizens Centers	
	Restricted Funds	100,000
158.	Letcher County Water Authority (water tank for White Hill and expansion of water lines to Dry Fork, UZ and Premium)	
	Restricted Funds	160,000"

Floor Amendment No. 20 to the Committee Substitute to **HB 507**, by Representative Ballard:

On page 144, between lines 11 and 12, insert the following item for fiscal year 2002-2003 and renumber subsequent sections:

" 92.	Hopkins County Fiscal Court - Purchase of land for industrial park	
	Restricted Funds	1,500,000"

Floor Amendment No. 21 to the Committee Substitute to **HB 507**, by Representative Fischer:

On page 177, after line 17 and before line 18, by inserting the following:

"No moneys appropriated in this Act shall be expended for the purpose of human cloning or the experimentation on human embryos. Human cloning shall include, but not be limited to, human asexual reproduction, accomplished by introducing nuclear material from one (1) or more human somatic cells into a fertilized or unfertilized oocyte whose nuclear material has been removed or inactivated so as to produce a living organism, at any stage of development, that is genetically virtually identical to an existing or previously existing human organism. An amount equal to the expenditures of any agency that violates this provision shall be returned to the credit of the General Fund."

Floor Amendment No. 22 to the Committee Substitute to **HB 507**, by Representative Fischer:

On page 177, after line 17 and before line 18, by inserting the following:

"No moneys appropriated in this Act shall be expended for the purpose of human cloning or the experimentation on human embryos. Human cloning shall include, but not be limited to, human asexual reproduction, accomplished by introducing nuclear material from one (1) or more human somatic cells into a fertilized or unfertilized oocyte whose nuclear material has been removed or inactivated so as to produce a living organism, at any stage of development, that is genetically virtually identical to an existing or previously existing human organism."

Floor Amendment No. 23 to the Committee Substitute to **HB 507**, by Representative Nesler:

On page 163, after line 26, by inserting the following:

"15. The appropriation by the 2000 General Assembly in the amount of $2,000,000 in Bond Funds for fiscal year 2001-2002 (2000 Ky Acts, Ch. 549, Part II, R. Community Development Projects, 1. Finance and Administration Cabinet, number 661, Aquaculture Infrastructure Components), in accordance with the provisions of Part II 1. (4) Capital Project Budget Provisions, of this Act, is reauthorized and reallocated in fiscal year 2002-2003 to be administered by the Governor's Office of Agriculture Policy as follows: $600,000 to the Purchase Area Aquaculture Cooperative of which $450,000 is to be used for the purchase and installation of processing equipment, and the remaining $150,000 is to be used to complete the pond cost share program for farmers that were deemed qualified but due to rankings did not get funded; $1,000,000 to the Kentucky State University Aquaculture Program of which $900,000 is to be used for shrimp research and development, and the remaining $100,000 is to be used for bass research and development; and $400,000 to the Aquaculture Facility in Montgomery County.".

Floor Amendment No. 24 to the Committee Substitute to **HB 507**, by Representative Coleman:

On page 62, line 21, by deleting "3,460,800" and inserting in lieu thereof "2,934,300" and by deleting "3,603,800" and inserting in lieu thereof "3,215,500"; and

On page 62, by deleting lines 22 and 23 in their entirety and adjusting subtotals and totals accordingly.

Floor Amendment No. 2 to **HB 658**, by Representative Yonts:

On page 5, between lines 2 and 3, insert the following: "Nothing in this bill shall affect the funding of courthouse projects authorized by the 2000 General Assembly."

Floor Amendment No. 25 to the Committee Substitute to **HB 507**, by Representative Crall:

On page 30, between lines 12 and 13, insert the following:

"Included in the above General Fund appropriation is $100,000 in fiscal year 2002-03 and $100,000 in fiscal year 2003-04 for additional and equitable health benefits for local school district number 145.";

On page 30, line 16, delete "277,397,000" and insert "277,297,000" in lieu thereof; and

On page 30, line 17, delete "309,119,400" and insert "309,019,400" in lieu thereof.

Floor Amendment No. 26 to the Committee Substitute to **HB 507**, by Representative Crall:

On page 30, between lines 12 and 13, insert the following:

"Included in the above General Fund appropriation is $100,000 in fiscal year 2002-2003 and $100,000 in fiscal year 2003-2004 for additional and equitable health benefits for local school district number 145.

Included in the above General Fund appropriation is $51,758,200 in fiscal year 2002-2003 and $51,758,200 in fiscal year 2003-2004 for Family Resource and Youth Service Center Program."

Floor Amendment No. 27 to the Committee Substitute to **HB 507**, by Representative Crall:

On page 30, between lines 12 and 13, insert the following:

"Included in the above General Fund appropriation is $100,000 in fiscal year 2002-2003 and $100,000 in fiscal year 2003-04 for additional and equitable health benefits for local school district number 145.

Included in the above General Fund appropriation is $33,340,500 in fiscal year 2002-2003 and $33,340,500 in fiscal year 2003-2004 for the Extended School Services Program."

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 211, Representatives Colter and Scott

HB 354, Representative Childers

HB 403, Representatives Colter and Scott

HB 610, Representative L. Belcher

HB 646, Representative Colter

HCR 43, Representative Allen

HCR 161, Representatives Brinkman and Kerr.

Representative Stumbo moved that no further business be conducted on this day except for filing Floor Amendments. Agreed.

Representative Stumbo moved that when the House does adjourn on this day, it does so until the hour of 2:00 p.m. on Wednesday, March 13, 2002. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Announcements

The following meetings were announced:

Appropriations and Revenue: upon adjournment, Room 131

Licensing and Occupations: Wednesday, March 13, 2002, noon, Room 131

Administrative Regulation Review Subcommittee: noon, Wednesday, March 13, 2002, Room 149

Education: Wednesday, March 13, 2002, 8:00 a.m.

Natural Resources and Environment: Wednesday, March 13, 2002, 9:00 a.m., Room 131

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m. on Wednesday, March 13, 2002.

The motion that the House adjourn until 2:00 p.m., Wednesday, March 13, 2002, was adopted by voice vote.

WEDNESDAY, MARCH 13, 2002

FORTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by David Rogers, Youth Minister, Holly Hill Church of Christ, Frankfort, KY.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of Tuesday, March 12, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Motions, Petitions, and Communications

Representative Draud moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Since the honored guests were not available at this time the reading of the citation was deferred.

Representative Thomas moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Thomas moved the adoption of the following **Legislative Citation No. 87.**

The House of Representatives of the Commonwealth of Kentucky hereby honors the esteemed members and staff of Girls, Inc. Bowling Green, Kentucky upon visiting the Capitol in Frankfort, Kentucky, to witness the proceedings of this honorable body during the Regular Session of the 2002 Kentucky General Assembly. These distinguished young citizens are further paid most ardent tribute for their participation in this national non-profit youth organization which seeks to provide the young women of this Commonwealth and Nation with vital educational programs and opportunities in an effort to help them to reach their highest potential; to prepare them to lead successful, independent, and fulfilling lives; and to become the future leaders of America, a feat of which they are all most capable. Therefore, this honorable body is delighted to join with Representative Roger Thomas in welcoming the members and staff of Girls, Inc., to the Chambers of the House of Representatives and in wishing them limitless success in all their future endeavors. Done in Frankfort, Kentucky, this thirteenth day of March, in the year two thousand and two.

Legislative Citation No. 87 was adopted without objection.

Senate Message

Announcing passage of **SB 126, SB 150, SB 166, SB 167, SB 220, SB 238, SB 243, SB 254, SCR 49, SJR 109,** and **HB 456**. (Time: 2:10 p.m.)

Motions, Petitions, and Communications

Representative Barrows moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Barrows moved the adoption of the following **Legislative Citation No. 88.**

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincere congratulations to the Woodford County High School Mat Jackets Wrestling Team upon recently winning their eleventh state championship title at the 2002 KHSAA State Wrestling Championship where they also garnered eleven individual medals and broke all tournament records for the highest total team points. Inasmuch as this outstanding group of athletes, under the skilled tutelage of Coaches Rusty Parks, Joe Carr, and David Graves, have demonstrated remarkable talent and dedication to the sport of wrestling and have put forth tremendous effort in pursuit of this worthwhile goal, the members of this distinguished body are delighted to join Representative Joe Barrows in applauding the achievements of this celebrated team and in extending to them best wishes for continued athletic victories. Done in Frankfort, Kentucky, this thirteenth day of March, in the year two thousand and two.

Legislative Citation No. 88 was adopted without objection.

Representative Draud moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Draud moved the adoption of the following **Legislative Citation No. 86**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes the members and coaches of the Notre Dame Academy Swimming and Diving Team upon capturing the Northern Kentucky Athletic Conference Championship title, the KHSAA Region IV Championship title and the KHSAA State Championship title. Inasmuch as this phenomenal group of athletes has demonstrated extraordinary ability and dedication to the sport of swimming and diving, the members of this distinguished body are pleased to join with Representative Jon E. Draud in recognizing the laudable achievements made by the Notre Dame Academy Swimming and Diving Team in this worthwhile endeavor and in extending best wishes for continued success. Done in Frankfort, Kentucky, this thirteenth day of March, in the year two thousand and two.

Legislative Citation No. 86 was adopted without objection.

Introduction of Bills and Resolutions

HR 233, by Representative Graham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of the Reverend Dale Niswonger.

HB 234, by Representatives Rasche and Geveden: A RESOLUTION urging support of the Barkley Regional Airport in Paducah, Kentucky.

HR 235, by Representatives Nunn, Richards, Graham, McKee, and Crimm: A RESOLUTION adjourning the House of Representatives in honor of Raymond Loranzo Webb.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Resolution:

House Floor: **HR 232**

The Committee on Rules reported that **HB 614, HB 662, HB 745, HB 294,** and **HB 542** have been posted for passage in the Orders of the Day for March 14, 2002.

The Committee on Education reported **HB 747** with Committee Substitute attached thereto, **HB 873** with Committee Substitute and Committee Amendment attached thereto, **SB 159, SB 168** with Committee Substitute attached thereto, **SB 192,** and **SB 211** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 747, AN ACT relating to school athletics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.070 is amended to read as follows:

(1) The Kentucky Board of Education shall have the management and control of the common schools and all programs operated in these schools, including interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for the Blind, and community education programs and services.

(2) The Kentucky Board of Education may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations, and bylaws of any organization or agency so designated shall be approved by the board, and provided further that any administrative hearing conducted by the designated managing organization or agency shall be conducted in accordance with KRS Chapter 13B.

(a) The state board or its designated agency shall assure through promulgation of administrative regulations that if a secondary school sponsors or intends to sponsor an athletic activity or sport that is similar to a sport for which National Collegiate Athletic Association members offer an athletic scholarship, the school shall sponsor the athletic activity or sport for which a scholarship is offered. The administrative regulations shall specify which athletic activities are similar to sports for which National Collegiate Athletic Association members offer scholarships.

(b) The state board or any agency designated by the state board to manage interscholastic athletics shall not promulgate rules, administrative regulations, or bylaws which prohibit pupils in grades seven (7) to eight (8) from participating in any high school sports except for high school varsity soccer and football, or from participating on more than one (1) school-sponsored team at the same time in the same sport. The Kentucky Board of Education, or an agency designated by the board to manage interscholastic athletics, may promulgate administrative regulations restricting, limiting, or prohibiting participation in high school varsity soccer and football for students who have not successfully completed the eighth grade.

(c) Any student who turns nineteen (19) years of age prior to August 1 shall not be eligible for high school athletics in Kentucky. Any student who turns nineteen (19) years of age on or after August 1 shall remain eligible for that school year only.

(d) If the state board***,***[~~ or~~] any agency designated by the state board to manage interscholastic athletics***, a local school board, or a school-based decision making council*** promulgates administrative regulations ***or policies*** that permit a school district to employ or assign nonteaching personnel to serve in a coaching position, those administrative regulations ***or policies*** shall apply to all sports and sports activities, including basketball and football. The administrative regulations ***or policies*** shall give preference to the hiring or assignment of certified personnel over nonteaching personnel in coaching positions.

(3) (a) The Kentucky Board of Education is hereby authorized to lease from the State Property and Buildings Commission, or others, whether public or private, any lands, buildings, structures, installations, and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. The lease may be for any initial term commencing with the date of the lease and ending with the next ensuing June 30, which is the close of the then-current fiscal biennium of the Commonwealth, with exclusive options in favor of the board to renew the same for successive ensuing bienniums, July 1 in each even year to June 30 in the next ensuing even year; and the rentals may be fixed at the sums in each biennium, if renewed, sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on, and provide reserves for, any revenue bonds which the State Property and Buildings Commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring the television and related facilities, with appurtenances, and costs as may be incident to the issuance of the bonds.

(b) Each option of the Kentucky Board of Education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the chief state school officer, and delivered to the secretary of the Finance and Administration Cabinet as a member of the commission. The option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the Finance and Administration Cabinet before the close of business on the last working day in April immediately preceding the beginning of the succeeding biennium.

(c) The Kentucky Board of Education shall not itself operate leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the chief state school officer and the Department of Education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to the reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any lease and to the cost of providing for the operation of the television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises, and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

(4) The state board may, on the recommendation and with the advice of the chief state school officer, prescribe, print, publish, and distribute at public expense such administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports, and placards as each deems necessary for the efficient management, control, and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by the board shall be inclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.

(5) Upon the recommendation of the chief state school officer or his designee, the state board shall establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets, and all other matters which are the administrative responsibility of the Department of Education.

The Committee Substitute to **HB 747** is as follows:

HB 747, AN ACT relating to school athletics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.070 is amended to read as follows:

(1) The Kentucky Board of Education shall have the management and control of the common schools and all programs operated in these schools, including interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for the Blind, and community education programs and services.

(2) The Kentucky Board of Education may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations, and bylaws of any organization or agency so designated shall be approved by the board, and provided further that any administrative hearing conducted by the designated managing organization or agency shall be conducted in accordance with KRS Chapter 13B.

(a) The state board or its designated agency shall assure through promulgation of administrative regulations that if a secondary school sponsors or intends to sponsor an athletic activity or sport that is similar to a sport for which National Collegiate Athletic Association members offer an athletic scholarship, the school shall sponsor the athletic activity or sport for which a scholarship is offered. The administrative regulations shall specify which athletic activities are similar to sports for which National Collegiate Athletic Association members offer scholarships.

(b) The state board or any agency designated by the state board to manage interscholastic athletics shall not promulgate rules, administrative regulations, or bylaws which prohibit pupils in grades seven (7) to eight (8) from participating in any high school sports except for high school varsity soccer and football, or from participating on more than one (1) school-sponsored team at the same time in the same sport. The Kentucky Board of Education, or an agency designated by the board to manage interscholastic athletics, may promulgate administrative regulations restricting, limiting, or prohibiting participation in high school varsity soccer and football for students who have not successfully completed the eighth grade.

(c) Any student who turns nineteen (19) years of age prior to August 1 shall not be eligible for high school athletics in Kentucky. Any student who turns nineteen (19) years of age on or after August 1 shall remain eligible for that school year only.

(d) If the state board***,***[~~ or~~] any agency designated by the state board to manage interscholastic athletics***, or a local school board*** promulgates administrative regulations ***or policies*** that permit a school district to employ or assign nonteaching personnel to serve in a coaching position, those administrative regulations ***or policies*** shall apply to all sports and sports activities, including basketball and football. The administrative regulations ***or policies*** shall give preference to the hiring or assignment of certified personnel over nonteaching personnel in coaching positions.

(3) (a) The Kentucky Board of Education is hereby authorized to lease from the State Property and Buildings Commission, or others, whether public or private, any lands, buildings, structures, installations, and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. The lease may be for any initial term commencing with the date of the lease and ending with the next ensuing June 30, which is the close of the then-current fiscal biennium of the Commonwealth, with exclusive options in favor of the board to renew the same for successive ensuing bienniums, July 1 in each even year to June 30 in the next ensuing even year; and the rentals may be fixed at the sums in each biennium, if renewed, sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on, and provide reserves for, any revenue bonds which the State Property and Buildings Commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring the television and related facilities, with appurtenances, and costs as may be incident to the issuance of the bonds.

(b) Each option of the Kentucky Board of Education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the chief state school officer, and delivered to the secretary of the Finance and Administration Cabinet as a member of the commission. The option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the Finance and Administration Cabinet before the close of business on the last working day in April immediately preceding the beginning of the succeeding biennium.

(c) The Kentucky Board of Education shall not itself operate leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the chief state school officer and the Department of Education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to the reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any lease and to the cost of providing for the operation of the television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises, and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

(4) The state board may, on the recommendation and with the advice of the chief state school officer, prescribe, print, publish, and distribute at public expense such administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports, and placards as each deems necessary for the efficient management, control, and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by the board shall be inclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.

(5) Upon the recommendation of the chief state school officer or his designee, the state board shall establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets, and all other matters which are the administrative responsibility of the Department of Education.

HB 873, AN ACT relating to the eligibility of nonpublic high school graduates for inclusion in the Kentucky Educational Excellence Scholarship Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.7879 is amended to read as follows:

(1) Kentucky educational excellence scholarship awards shall be based upon an established base scholarship amount and an eligible high school student's grade point average. The base scholarship amount for students attaining a grade point average of at least 2.5 for the 1998-1999 academic year shall be as follows:

GPA	Amount	GPA	Amount
2.50	$125.00	3.30	$325.00
2.60	$150.00	3.40	$350.00
2.70	$175.00	3.50	$375.00
2.75	$187.00	3.60	$400.00
2.80	$200.00	3.70	$425.00
2.90	$225.00	3.75	$437.00
3.00	$250.00	3.80	$450.00
3.10	$275.00	3.90	$475.00
3.20	$300.00	4.00	$500.00
3.25	$312.00		

The council shall review the base amount of the Kentucky educational excellence scholarship beginning with the 1999-2000 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

(2) (a) The authority shall commit to provide to each eligible high school student the base amount of the Kentucky educational excellence scholarship for each academic year of high school study in the Kentucky educational excellence scholarship curriculum that the high school student has attained at least a 2.5 grade point average. The award shall be based upon the eligible high school student's grade point average at the close of each academic year. An award attributable to a past academic year shall not be increased after the award has been earned by an eligible high school student, regardless of any subsequent increases made to the base amount of the Kentucky educational excellence scholarship through the promulgation of an administrative regulation by the council.

(b) Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874, any high school student who maintains Kentucky residency and completes the academic courses that are required for a Kentucky educational excellence scholarship while participating in an approved educational high school foreign exchange program or participating in the United States Congressional Page School may apply his or her grade point average for that academic year toward the base as described in paragraph (a) of this subsection. The grade point average shall be reported by the student's Kentucky home high school, based on an official transcript from the school that the student attended during the out-of-state educational experience. The council shall promulgate administrative regulations that describe the approval process for the educational exchange programs that qualify under this paragraph. The provisions in this paragraph shall likewise apply to any Kentucky high school student who participated in an approved educational exchange program or in a Congressional Page School since the 1998-99 school year and maintained his or her Kentucky residency throughout.

(3) (a) The authority shall commit to provide to each eligible high school student graduating from high school before June 30, 1999, and achieving a score of at least 15 on the American College Test, a supplemental award for the award period beginning in the fall of 1999, based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Annual Bonus	ACT Score	Annual Bonus
15	$21	22	$171
16	$43	23	$193
17	$64	24	$214
18	$86	25	$236
19	$107	26	$257
20	$129	27	$279
21	$150	28 or above	$300

Subsequent supplemental awards for eligible high school students graduating before June 30, 1999, shall be determined in accordance with the provisions of paragraph (b) of this subsection.

(b) The authority shall commit to provide to each eligible high school student upon achievement after June 30, 1999, of an ACT score of at least 15 on the American College Test a supplemental award based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Amount	ACT Score	Amount
15	$36	22	$286
16	$71	23	$321
17	$107	24	$357
18	$143	25	$393
19	$179	26	$428
20	$214	27	$464
21	$250	28 and above	$500

The council shall review the base amount of the supplemental award beginning with the 2001-2002 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

(c) ***Notwithstanding the definitions of "eligible high school student," "eligible postsecondary student," and "high school" in KRS 164.7874, a student who graduates from any nonpublic secondary school and has attained a perfect composite score of thirty-six (36) on the American College Test (ACT) or the score of one thousand six hundred (1,600) on the Scholastic Aptitude Test (SAT) shall be eligible to receive the maximum for one (1) year of the base amount of the scholarship and the supplemental award for one (1) academic year.***

(d) The council shall promulgate administrative regulations establishing the eligibility criteria and procedures for making a supplemental award to Kentucky residents who are citizens, nationals, or permanent residents of the United States and who graduate from a nonpublic secondary school not certified by the Kentucky Board of Education and Kentucky residents who are citizens, nationals, or permanent residents of the United States and who obtain a General Educational Development (GED) diploma within five (5) years of their high school graduating class.

Section 2. KRS 164.7881 is amended to read as follows:

(1) Eligible high school students who have graduated from high school and eligible postsecondary students who have earned a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and a supplemental award, or a supplemental award only pursuant to KRS 164.7879(3)***(d)***~~[(c)]~~, shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or a supplemental award only for a maximum of eight (8) academic terms in an undergraduate or other postsecondary program of study at a participating institution, except as provided in subsection (6) of this section.

(2) To receive the Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and

supplemental award, or a supplemental award only, an eligible high school or postsecondary student shall:

(a) Enroll in and attend a participating institution as a full-time student or a part-time student; and

(b) Maintain eligibility as provided in subsection (3) of this section.

(3) Eligibility for a Kentucky educational excellence scholarship or a Kentucky educational excellence scholarship and supplemental award shall terminate upon the earlier of:

(a) The expiration of five (5) years following the student's graduation from high school, except as provided in subsection (5) or (6) of this section; or

(b) The successful completion of an undergraduate or other postsecondary course of study. However, any student who successfully completes the requirements for a degree or certification involving a postsecondary course of study that normally requires less than eight (8) academic terms to complete may continue to receive the benefits of a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, for a cumulative total of eight (8) academic terms if the student enrolls as at least a part-time student in a four (4) year program.

(4) (a) The maximum award amount shall be determined by the council and shall be adjusted as provided in this subsection. The award amount ultimately determined to be available to an eligible postsecondary student for an award period shall be disbursed by the authority to the eligible postsecondary student in two (2) installments, with one (1) installment being disbursed in each of the two (2) academic terms during the award period.

(b) The authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible postsecondary student for any academic term in which the student is enrolled on a part-time basis. Each academic term for which any scholarship or supplemental award funds are accepted by an eligible postsecondary student shall count as a full academic term, even if the award amount was reduced to reflect the part-time status of the eligible postsecondary student.

(c) 1. An eligible postsecondary student who is enrolled full-time in an undergraduate program of study shall receive the maximum award amount for the first award period that the student is enrolled in and attending the program of study. To retain the maximum award for the second award period, an eligible postsecondary student shall have at least a 2.5 grade point average at the end of the first award period. To retain the maximum award amount for subsequent award periods, an eligible postsecondary student shall have a cumulative grade point average of 3.0 or greater at the end of the prior award period.

2. Any eligible postsecondary student who maintains a cumulative grade point average of less than 3.0 but at least 2.5 at the completion of any award period shall receive a reduction in the maximum award amount equal to fifty percent (50%) of the maximum award amount for the next award period.

3. Any eligible postsecondary student who maintains a cumulative grade point average of less than 2.5 at the completion of any award period shall lose his or her award for the next award period.

4. Each participating institution shall certify to the authority at the close of each award period the cumulative grade point average of each Kentucky educational excellence scholarship recipient enrolled as a full-time or part-time student at the participating institution.

5. Any student who loses eligibility through failure to maintain the required cumulative grade point average may regain eligibility in a subsequent award period upon reestablishing at least a 2.5 cumulative grade point average or its equivalent during a subsequent award period, as certified by the participating institution.

(5) The expiration of a student's five (5) year eligibility shall be extended by the authority upon a determination that the student was unable to enroll for or complete an academic term due to any of the following circumstances:

(a) A serious and extended illness or injury of the student, certified by an attending physician;

(b) The death or serious and extended illness or injury of an immediate family member of the student, certified by an attending physician, which would render the student unable to attend classes;

(c) Natural disasters that would render a student unable to attend classes; or

(d) Active duty status for the student in the United States Armed Forces or as an officer in the Commissioned Corps of the United States Public Health Service, or active service by the student in the Peace Corps Act or the Americorps, for up to three (3) years.

(6) An eligible postsecondary student who is enrolled at a participating institution in a five (5) year undergraduate degree program designated in an administrative regulation promulgated by the council shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or the supplemental award only for a maximum of ten (10) academic terms. The expiration of an eligible postsecondary student's five (5) year eligibility shall be extended to six (6) years for eligible postsecondary students meeting the requirements of this subsection.

(7) Each eligible high school student who attains a 28 or above on the ACT and a 4.0 grade point average for all four (4) years of high school shall be designated as a "Senator Jeff Green Scholar" in honor of the late Senator Jeff Green of Mayfield,

Kentucky, First District, and shall be recognized by the high school in a manner consistent with recognition given by the high school to other high levels of academic achievement.

Section 3. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

(1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the council;

(2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;

(3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or an equivalent score, as determined by the council, on the Scholastic Assessment Test;

(4) "Authority" means the Kentucky Higher Education Assistance Authority;

(5) "Award period" means two (2) consecutive academic terms;

(6) "Council" means the Council on Postsecondary Education created under KRS 164.011;

(7) "Eligible high school student" means any person who is a citizen, national, or permanent resident of the United States and Kentucky resident enrolling in a Kentucky high school, after July 1, 1998, who, while meeting the Kentucky educational excellence scholarship curriculum requirements, has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, and who is not a convicted felon;

(8) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:

  (a) Earned a Kentucky educational excellence scholarship base, supplemental, or base and supplemental final award;

  (b) Has the required postsecondary G.P.A. required under KRS 164.7881;

  (c) Has remaining semesters of eligibility under KRS 164.7881;

  (d) Is enrolled in a participating institution as a part-time or full-time student; and

  (e) Is not a convicted felon;

(9) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;

(10) "Grade point average" means the grade point average earned by an eligible student based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;

(11) "High school" means any Kentucky public high school, and any private, parochial, or church school that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;

(12) "KEES" means Kentucky educational excellence scholarship;

(13) "KEES curriculum" means five (5) courses of study in an academic year as determined by administrative regulation promulgated by the council;

(14) "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;

(15) "Kentucky educational excellence scholarship trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;

(16) "Maximum award amount" means the sum of the base scholarship amount earned by an eligible high school student in each academic year of high school study plus any supplemental award earned by an eligible high school student or earned pursuant to KRS 164.7879(3)***(d)***[~~(c)~~]. The amount so determined shall be the maximum amount available to the eligible postsecondary student for any award period;

(17) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:

  (a) 1. Is publicly operated; or

    2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; or

    3. Is designated by the Council on Postsecondary Education as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and

  (b) Continues to commit financial resources to student financial assistance programs and provides annual documentation to the authority of compliance;

(18) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student

requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and

(19) "Supplemental award" means commitment of scholarship funds under KRS 164.7879(3).

Section 4. KRS 164.7885 is amended to read as follows:

(1) Not later than August 1, 1999, and each June 30 thereafter, each Kentucky high school shall submit to the Kentucky Department of Education, which shall transmit to the authority, a compiled list of all high school students during the academic year. The list shall identify the high school and shall contain each high school student's name, social security number, address, grade point average for the academic year, expected or actual graduation date, and highest ACT score. The list need not contain the ACT score if the authority receives the ACT score directly from the testing services. The authority shall notify each eligible high school student of his or her Kentucky educational excellence scholarship award earned each academic year. The authority shall determine the final Kentucky educational excellence scholarship and supplemental award based upon the actual final grade point average and highest ACT score and shall notify each eligible high school student of the final determination. The authority shall make available a list of eligible high school and postsecondary students to participating institutions.

(2) The authority shall provide data access only to participating institutions that have either received an admission application from an eligible high school or postsecondary student or have been listed by the eligible high school or postsecondary student on the Free Application For Federal Student Aid.

(3) For each eligible postsecondary student enrolling in a participating institution after July 1, 1999, the participating institution shall verify to the authority:

(a) The student's initial eligibility for a Kentucky educational excellence scholarship, Kentucky educational excellence scholarship and supplemental award, or supplemental award only pursuant to KRS 164.7879(3)***(d)***[~~(c)~~] through the comprehensive list compiled by the authority or an alternative source satisfactory to the authority;

(b) The student's highest ACT score attained by the date of graduation from high school, provided that the participating institution need not report the ACT score if the authority receives the ACT score directly from the testing services;

(c) The eligible postsecondary student's full-time or part-time enrollment status at the beginning of each academic term; and

(d) The eligible postsecondary student's cumulative grade point average after the completion of each award period.

(4) Each participating institution shall submit to the authority a report, in a form satisfactory to the authority, of all eligible postsecondary students enrolled for that academic term. Kentucky educational excellence scholarships and supplemental awards shall be disbursed by the authority to each eligible postsecondary student attending a participating institution during the academic term within thirty (30) days after receiving a satisfactory report.

(5) The Kentucky educational excellence scholarship and the supplemental award shall not be reduced, except as provided in KRS 164.7881(4).

(6) Kentucky educational excellence scholarships and supplemental awards shall not be awarded or disbursed to any eligible postsecondary students who are in default on any obligation to the authority under any programs administered by the authority until financial obligations to the authority are satisfied, except that ineligibility may be waived by the authority for cause.

(7) Notwithstanding the provisions of KRS 164.753, the authority may promulgate administrative regulations for the administration of Kentucky educational excellence scholarships and supplemental awards under the provisions of KRS 164.7871 to 164.7885 and KRS 164.7889.

The Committee Substitute to **HB 873** is as follows:

HB 873, AN ACT relating to the eligibility of nonpublic high school graduates for inclusion in the Kentucky Educational Excellence Scholarship Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.7879 is amended to read as follows:

(1) Kentucky educational excellence scholarship awards shall be based upon an established base scholarship amount and an eligible high school student's grade point average. The base scholarship amount for students attaining a grade point average of at least 2.5 for the 1998-1999 academic year shall be as follows:

GPA	Amount	GPA	Amount
2.50	$125.00	3.30	$325.00
2.60	$150.00	3.40	$350.00
2.70	$175.00	3.50	$375.00
2.75	$187.00	3.60	$400.00

2.80	$200.00	3.70	$425.00
2.90	$225.00	3.75	$437.00
3.00	$250.00	3.80	$450.00
3.10	$275.00	3.90	$475.00
3.20	$300.00	4.00	$500.00
3.25	$312.00		

The council shall review the base amount of the Kentucky educational excellence scholarship beginning with the 1999-2000 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

(2) (a) The authority shall commit to provide to each eligible high school student the base amount of the Kentucky educational excellence scholarship for each academic year of high school study in the Kentucky educational excellence scholarship curriculum that the high school student has attained at least a 2.5 grade point average. The award shall be based upon the eligible high school student's grade point average at the close of each academic year. An award attributable to a past academic year shall not be increased after the award has been earned by an eligible high school student, regardless of any subsequent increases made to the base amount of the Kentucky educational excellence scholarship through the promulgation of an administrative regulation by the council.

(b) Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874, any high school student who maintains Kentucky residency and completes the academic courses that are required for a Kentucky educational excellence scholarship while participating in an approved educational high school foreign exchange program or participating in the United States Congressional Page School may apply his or her grade point average for that academic year toward the base as described in paragraph (a) of this subsection. The grade point average shall be reported by the student's Kentucky home high school, based on an official transcript from the school that the student attended during the out-of-state educational experience. The council shall promulgate administrative regulations that describe the approval process for the educational exchange programs that qualify under this paragraph. The provisions in this paragraph shall likewise apply to any Kentucky high school student who participated in an approved educational exchange program or in a Congressional Page School since the 1998-99 school year and maintained his or her Kentucky residency throughout.

(3) (a) The authority shall commit to provide to each eligible high school student graduating from high school before June 30, 1999, and achieving a score of at least 15 on the American College Test, a supplemental award for the award period beginning in the fall of 1999, based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Annual Bonus	ACT Score	Annual Bonus
15	$21	22	$171
16	$43	23	$193
17	$64	24	$214
18	$86	25	$236
19	$107	26	$257
20	$129	27	$279
21	$150	28 or above	$300

Subsequent supplemental awards for eligible high school students graduating before June 30, 1999, shall be determined in accordance with the provisions of paragraph (b) of this subsection.

(b) The authority shall commit to provide to each eligible high school student upon achievement after June 30, 1999, of an ACT score of at least 15 on the American College Test a supplemental award based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Amount	ACT Score	Amount
15	$36	22	$286
16	$71	23	$321
17	$107	24	$357
18	$143	25	$393
19	$179	26	$428
20	$214	27	$464

21	$250	28 ***to 35***[~~and above~~]	$500
		36	***$1,000***

The council shall review the base amount of the supplemental award beginning with the 2001-2002 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

(c) The council shall promulgate administrative regulations establishing the eligibility criteria and procedures for making a supplemental award to Kentucky residents who are citizens, nationals, or permanent residents of the United States and who graduate from a nonpublic secondary school not certified by the Kentucky Board of Education and Kentucky residents who are citizens, nationals, or permanent residents of the United States and who obtain a General Educational Development (GED) diploma within five (5) years of their high school graduating class.

Section 2. KRS 164.7881 is amended to read as follows:

(1) Eligible high school students who have graduated from high school and eligible postsecondary students who have earned a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and a supplemental award, or a supplemental award only pursuant to KRS 164.7879(3)(c), shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or a supplemental award only for a maximum of eight (8) academic terms in an undergraduate or other postsecondary program of study at a participating institution, except as provided in subsection (6) of this section.

(2) To receive the Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, an eligible high school or postsecondary student shall:

(a) Enroll in and attend a participating institution as a full-time student or a part-time student; and

(b) Maintain eligibility as provided in subsection (3) of this section.

(3) Eligibility for a Kentucky educational excellence scholarship or a Kentucky educational excellence scholarship and supplemental award shall terminate upon the earlier of:

(a) The expiration of five (5) years following the student's graduation from high school, except as provided in subsection (5) or (6) of this section; or

(b) The successful completion of an undergraduate or other postsecondary course of study. However, any student who successfully completes the requirements for a degree or certification involving a postsecondary course of study that normally requires less than eight (8) academic terms to complete may continue to receive the benefits of a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, for a cumulative total of eight (8) academic terms if the student enrolls as at least a part-time student in a four (4) year program.

(4) (a) The maximum award amount shall be determined by the council and shall be adjusted as provided in this subsection. The award amount ultimately determined to be available to an eligible postsecondary student for an award period shall be disbursed by the authority to the eligible postsecondary student in two (2) installments, with one (1) installment being disbursed in each of the two (2) academic terms during the award period.

(b) The authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible postsecondary student for any academic term in which the student is enrolled on a part-time basis. Each academic term for which any scholarship or supplemental award funds are accepted by an eligible postsecondary student shall count as a full academic term, even if the award amount was reduced to reflect the part-time status of the eligible postsecondary student.

(c) 1. An eligible postsecondary student who is enrolled full-time in an undergraduate program of study shall receive the maximum award amount for the first award period that the student is enrolled in and attending the program of study. To retain the maximum award for the second award period, an eligible postsecondary student shall have at least a 2.5 grade point average at the end of the first award period. To retain the maximum award amount for subsequent award periods, an eligible postsecondary student shall have a cumulative grade point average of 3.0 or greater at the end of the prior award period.

2. Any eligible postsecondary student who maintains a cumulative grade point average of less than 3.0 but at least 2.5 at the completion of any award period shall receive a reduction in the maximum award amount equal to fifty percent (50%) of the maximum award amount for the next award period.

3. Any eligible postsecondary student who maintains a cumulative grade point average of less than 2.5 at the completion of any award period shall lose his or her award for the next award period.

4. Each participating institution shall certify to the authority at the close of each award period the cumulative grade point average of each Kentucky educational excellence scholarship recipient enrolled as a full-time or part-time student at the participating institution.

5. Any student who loses eligibility through failure to maintain the required cumulative grade point average may regain eligibility in a subsequent award period upon reestablishing at least a 2.5 cumulative grade

point average or its equivalent during a subsequent award period, as certified by the participating institution.

(5) The expiration of a student's five (5) year eligibility shall be extended by the authority upon a determination that the student was unable to enroll for or complete an academic term due to any of the following circumstances:

(a) A serious and extended illness or injury of the student, certified by an attending physician;

(b) The death or serious and extended illness or injury of an immediate family member of the student, certified by an attending physician, which would render the student unable to attend classes;

(c) Natural disasters that would render a student unable to attend classes; or

(d) Active duty status for the student in the United States Armed Forces or as an officer in the Commissioned Corps of the United States Public Health Service, or active service by the student in the Peace Corps Act or the Americorps, for up to three (3) years.

(6) An eligible postsecondary student who is enrolled at a participating institution in a five (5) year undergraduate degree program designated in an administrative regulation promulgated by the council shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or the supplemental award only for a maximum of ten (10) academic terms. The expiration of an eligible postsecondary student's five (5) year eligibility shall be extended to six (6) years for eligible postsecondary students meeting the requirements of this subsection.

(7) Each eligible high school student who attains a 28 or above on the ACT and a 4.0 grade point average for all four (4) years of high school shall be designated as a "Senator Jeff Green Scholar" in honor of the late Senator Jeff Green of Mayfield, Kentucky, First District, and shall be recognized by the high school in a manner consistent with recognition given by the high school to other high levels of academic achievement.

Section 3. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

(1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the council;

(2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;

(3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or an equivalent score, as determined by the council, on the Scholastic Assessment Test;

(4) "Authority" means the Kentucky Higher Education Assistance Authority;

(5) "Award period" means two (2) consecutive academic terms;

(6) "Council" means the Council on Postsecondary Education created under KRS 164.011;

(7) "Eligible high school student" means any person who is a citizen, national, or permanent resident of the United States and Kentucky resident enrolling in a Kentucky high school, after July 1, 1998, who, while meeting the Kentucky educational excellence scholarship curriculum requirements, has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, and who is not a convicted felon;

(8) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:

(a) Earned a Kentucky educational excellence scholarship base, supplemental, or base and supplemental final award;

(b) Has the required postsecondary G.P.A. required under KRS 164.7881;

(c) Has remaining semesters of eligibility under KRS 164.7881;

(d) Is enrolled in a participating institution as a part-time or full-time student; and

(e) Is not a convicted felon;

(9) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;

(10) "Grade point average" means the grade point average earned by an eligible student based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;

(11) "High school" means any Kentucky public high school, and any private, parochial, or church school that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;

(12) "KEES" means Kentucky educational excellence scholarship;

(13) "KEES curriculum" means five (5) courses of study in an academic year as determined by administrative regulation promulgated by the council;

(14) "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;

(15) "Kentucky educational excellence scholarship trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;

(16) "Maximum award amount" means the sum of the base scholarship amount earned by an eligible high school student in each academic year of high school study plus any supplemental award earned by an eligible high school student or earned pursuant to KRS 164.7879(3)(c). The amount so determined shall be the maximum amount available to the eligible postsecondary student for any award period;

(17) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:

(a) 1. Is publicly operated; or

2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; or

3. Is designated by the Council on Postsecondary Education as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and

(b) Continues to commit financial resources to student financial assistance programs and provides annual documentation to the authority of compliance;

(18) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and

(19) "Supplemental award" means commitment of scholarship funds under KRS 164.7879(3).

Section 4. KRS 164.7885 is amended to read as follows:

(1) Not later than August 1, 1999, and each June 30 thereafter, each Kentucky high school shall submit to the Kentucky Department of Education, which shall transmit to the authority, a compiled list of all high school students during the academic year. The list shall identify the high school and shall contain each high school student's name, social security number, address, grade point average for the academic year, expected or actual graduation date, and highest ACT score. The list need not contain the ACT score if the authority receives the ACT score directly from the testing services. The authority shall notify each eligible high school student of his or her Kentucky educational excellence scholarship award earned each academic year. The authority shall determine the final Kentucky educational excellence scholarship and supplemental award based upon the actual final grade point average and highest ACT score and shall notify each eligible high school student of the final determination. The authority shall make available a list of eligible high school and postsecondary students to participating institutions.

(2) The authority shall provide data access only to participating institutions that have either received an admission application from an eligible high school or postsecondary student or have been listed by the eligible high school or postsecondary student on the Free Application For Federal Student Aid.

(3) For each eligible postsecondary student enrolling in a participating institution after July 1, 1999, the participating institution shall verify to the authority:

(a) The student's initial eligibility for a Kentucky educational excellence scholarship, Kentucky educational excellence scholarship and supplemental award, or supplemental award only pursuant to KRS 164.7879(3)***(d)***[~~(c)~~] through the comprehensive list compiled by the authority or an alternative source satisfactory to the authority;

(b) The student's highest ACT score attained by the date of graduation from high school, provided that the participating institution need not report the ACT score if the authority receives the ACT score directly from the testing services;

(c) The eligible postsecondary student's full-time or part-time enrollment status at the beginning of each academic term; and

(d) The eligible postsecondary student's cumulative grade point average after the completion of each award period.

(4) Each participating institution shall submit to the authority a report, in a form satisfactory to the authority, of all eligible postsecondary students enrolled for that academic term. Kentucky educational excellence scholarships and supplemental awards shall be disbursed by the authority to each eligible postsecondary student attending a participating institution during the academic term within thirty (30) days after receiving a satisfactory report.

(5) The Kentucky educational excellence scholarship and the supplemental award shall not be reduced, except as provided in KRS 164.7881(4).

(6) Kentucky educational excellence scholarships and supplemental awards shall not be awarded or disbursed to any eligible postsecondary students who are in default on any obligation to the authority under any programs administered by the authority until financial obligations to the authority are satisfied, except that ineligibility may be waived by the authority for cause.

(7) Notwithstanding the provisions of KRS 164.753, the authority may promulgate administrative regulations for the administration of Kentucky educational excellence scholarships and supplemental awards under the provisions of KRS 164.7871 to 164.7885 and KRS 164.7889.

The Committee Amendment No. 1 Title to **HB 873** is as follows:

Amend the title to read "AN ACT relating to the Kentucky Educational Excellence Scholarship Program.".

SB 159, AN ACT relating to the elementary school curriculum.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) (a) The General Assembly finds and declares that the integration of the arts and foreign languages into the school curriculum benefits students by increasing their motivation to learn; improves attendance; fosters multicultural understanding; and develops neurological cognitive potential through higher order thinking skills, creativity, and problem solving. Further, the General Assembly finds and declares that arts and foreign language education can renew and invigorate faculty and can foster greater parent and community participation and support.

(b) The General Assembly notes that it created a system of public education that allows and assists all students to acquire certain capacities provided under KRS 158.645, including communication skills necessary to function in a complex and changing civilization and sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage.

(c) The General Assembly further notes that its goals for public schools under KRS 158.6451 include: developing students' abilities to use basic communication and mathematics skills for purposes and situations they will encounter throughout their lives; to apply core concepts and principles from mathematics, the sciences, the arts, the humanities, and social studies; and to connect and integrate experiences and new knowledge from all subject matter fields with what they have previously learned and build on past learning experiences to acquire new information through various sources.

(2) It is the intent of the General Assembly in enacting Section 2 of this Act to address the findings and declarations set out in subsection (1) of this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The Department of Education shall establish a program that promotes the integration of the arts and foreign languages in the elementary school program. A school shall submit an application through the district superintendent, with the agreement of the school council or of the principal, if a council does not exist. The department shall award a grant to at least one (1) school per region based on the quality of the application in meeting the criteria established in subsection (2) of this section. Special consideration shall be given, but not limited to, a school that does not have an existing comprehensive arts and foreign language program.

(2) School programs under subsection (1) of this section shall include, but not be limited to, the following components:

(a) Instruction in each of the four (4) disciplines of dance, drama, music, and the visual arts that includes the core content skills and knowledge taught in a sequential manner and includes all students in the elementary school;

(b) Intense instruction in at least one (1) foreign language that includes skills and knowledge related to communicative language and culture taught and includes all students in the elementary school;

(c) Integration of arts and foreign language instruction across the curriculum;

(d) Coordination of the programs by teachers with appropriate arts and foreign language certification;

(e) Professional development for teachers and administrators designed to facilitate the effective teaching of arts and foreign language;

(f) An effective monitoring and evaluation system that includes student performance assessment;

(g) Partnerships with parents, local cultural agencies, individual artists, and native speakers of the foreign language who work in collaboration with classroom teachers;

(h) Support from the local school board, the school council, and teachers; and

(i) Student attendance at one (1) or more live performance or visual art exhibition each school year.

(3) The Department of Education shall report annually by July 1 of each year on the implementation of the program to the Governor and the Legislative Research Commission.

SB 168, AN ACT relating to reducing the achievement gaps in the public schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) "Achievement gap" means a substantive performance difference on each of the tested areas by grade level of the Commonwealth Accountability Testing System between the various groups of students including male and female students, students with and without disabilities, students with and without English proficiency, minority and nonminority students, and students who receive free and reduced lunch and those who do not receive free and reduced lunch.

(2) By November 1 of each year, the Department of Education shall provide each school council, or the principal if a school council does not exist, data on its students' performance as shown by the Commonwealth Accountability Testing System. The data shall include, but not be limited to, information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, English proficiency and participation in the federal free and reduced price lunch program. The information from the department shall include an equity analysis on the achievement gap among the various groups of students identified in subsection (1) of this section.

(3) By April 1 of each year, the school council, or the principal if a school council does not exist, with the involvement of the faculty and staff shall review the data and revise the consolidated plan to include strategies, activities, and a schedule calculated to eliminate the achievement gap among various groups of students to the extent it may exist. The plan shall include, but not be limited to, activities designed to address the following areas:

(a) Curriculum alignment within the school and with feeder schools that send or receive the school's students;

(b) Evaluation and assessment strategies to continuously monitor and modify instruction to meet student needs and support proficient student work;

(c) Professional development to address the goals of the plan;

(d) Parental communication and involvement;

(e) Attendance improvement and dropout prevention; and

(f) Technical assistance that will be accessed.

(4) The plan shall be submitted to the superintendent and the local board of education and shall be reviewed in the public meeting required under Section 5 of this Act.

(5) (a) Each local board of education shall adopt a policy for reviewing the academic performance on the state assessments required under KRS 158.6453 for various groups of students, including major racial groups, gender, disability, free and reduced price school lunch eligibility, and limited English proficiency. The local board policy shall be consistent with Kentucky Board of Education administrative regulations. The local board shall establish a biennial target for reducing identified gaps in achievement and interventions for a school's failure to meet the local board's goals. Based on the disaggregated biennial assessment results, the local board shall determine if each school achieved its biennial target for each group of students. Only data for a group of students including ten (10) or more students shall be considered.

(b) Notwithstanding subsection (8) of Section 5 of this Act and KRS 158.070(8), if a local board determines that a school has not met its biennial target to reduce the identified gap in student achievement for a group of students, the local board shall require the council, or the principal if no council exists, to submit its revisions to the consolidated plan describing the use of professional development funds and funds allocated for continuing education to reduce the school's achievement gap for review and approval by the superintendent. The plan shall address how the school will meet the academic needs of the students in the various groups identified in subsection (1) of this section.

(c) The superintendent shall report to the commissioner of education if a school fails to meet its target to reduce the gap in student achievement for any student group for two (2) successive biennia. The school council's consolidated plan shall be subject to review and approval by the Kentucky Department of Education and the school shall submit an annual status report. The Department of Education may provide assistance to schools as it deems necessary to assist the school in meeting its goals.

(d) The school council shall no longer be required to seek approval of its plan under paragraphs (b) and (c) of this subsection when it meets its biennial target for reducing the gap in student achievement for the various groups of students identified in subsection (1) of this section.

Section 2. KRS 156.095 is amended to read as follows:

(1) The Kentucky Department of Education shall establish, direct, and maintain a statewide program of professional development to improve instruction in the public schools.

(2) Each local school district superintendent shall appoint a certified school employee to fulfill the role and responsibilities of a professional development coordinator who shall disseminate professional development information to schools and personnel. Upon request by a school council or any employees of the district, the coordinator shall provide technical

assistance to the council or the personnel that may include assisting with needs assessments, analyzing school data, planning and evaluation assistance, organizing districtwide programs requested by school councils or groups of teachers, or other coordination activities.

(a) The manner of appointment, qualifications, and other duties of the professional development coordinator shall be established by Kentucky Board of Education through promulgation of administrative regulations.

(b) The local district professional development coordinator shall participate in the Kentucky Department of Education annual training program for local school district professional development coordinators. The training program may include, but not be limited to, the demonstration of various approaches to needs assessment and planning; strategies for implementing long-term, school-based professional development; strategies for strengthening teachers' roles in the planning, development, and evaluation of professional development; and demonstrations of model professional development programs. The training shall include information about teacher learning opportunities relating to the core content standards. The Kentucky Department of Education shall regularly collect and distribute this information.

(3) The Kentucky Department of Education shall provide or facilitate optional, professional development programs for certified personnel throughout the Commonwealth that are based on the statewide needs of teachers, administrators, and other education personnel. Programs may include classified staff and parents when appropriate. Programs offered or facilitated by the department shall be at locations and times convenient to local school personnel and shall be made accessible through the use of technology when appropriate. They shall include programs that: address the goals for Kentucky schools as stated in KRS 158.6451***, including reducing the achievement gaps as determined by an equity analysis of the disaggregated student performance data from the Commonwealth Accountability Testing System***; engage educators in effective learning processes and foster collegiality and collaboration; and provide support for staff to incorporate newly acquired skills into their work through practicing the skills, gathering information about the results, and reflecting on their efforts. Professional development programs may include, but not be limited to, focus on the following areas:

(a) ***Strategies to reduce the achievement gaps among various groups of students;***

(b) Curriculum content and methods of instruction for each content area;

(c)[~~(b)~~]School-based decision making;

(d)[~~(c)~~]Performance-based student assessment;

(e)[~~(d)~~]Nongraded primary programs;

(f)[~~(e)~~] Research-based instructional practices;

(g)[~~(f)~~] Instructional uses of technology;

(h)[~~(g)~~] Curriculum design to serve the needs of students with diverse learning styles and skills and of students of diverse cultures;

(i)[~~(h)~~] Instruction of phonics;

(j)[~~(i)~~] Educational leadership; and

(k)[~~(j)~~] Strategies to incorporate character education throughout the curriculum.

(4) The department shall utilize its regional service centers, in addition to collaboration with postsecondary education institutions, education cooperative and consortia, and professional education organizations, to provide local district personnel with access to high quality programming. The department shall assist school personnel in assessing the impact of professional development on their instructional practices and student learning.

(5) The department shall assist districts and school councils with the development of long-term school and district improvement plans that include multiple strategies for professional development based on the assessment of needs at the school level.

(a) Professional development strategies may include, but are not limited to, participation in subject matter academies, teacher networks, training institutes, workshops, seminars, and study groups; collegial planning; action research; mentoring programs; appropriate university courses; and other forms of professional development.

(b) In planning the use of the four (4) days for professional development under KRS 158.070, school councils and districts shall give priority to programs that increase teachers' understanding of curriculum content and methods of instruction appropriate for each content area based on individual school plans. The district may use up to one (1) day to provide district-wide training and training that is mandated by state or federal law. Only those employees identified in the mandate or affected by the mandate shall be required to attend the training.

(c) State funds allocated for professional development shall be used to support professional development initiatives that are consistent with local school improvement and professional development plans and teachers' individual growth plans. The funds may be used throughout the year for all staff, including classified and certified staff and parents on school councils or committees. A portion of the funds allocated to each school council under KRS 160.345 may be used to prepare or enhance the teachers' knowledge and teaching practices related to the content and subject matter that are required for their specific classroom assignments.

(6) The Department of Education shall establish an electronic consumer bulletin board that posts information regarding professional development providers and programs as a service to school district central office personnel, school councils, teachers, and administrators. Participation on the electronic consumer bulletin board shall be voluntary for professional development providers or vendors, but shall include all programs sponsored by the department. Participants shall provide the following information: program title; name of provider or vendor; qualifications of the presenters or instructors; objectives of the program; program length; services provided, including follow-up support; costs for participation and costs of materials; names of previous users of the program, addresses, and telephone numbers; and arrangements required. Posting information on the bulletin board by the department shall not be viewed as an endorsement of the quality of any specific provider or program.

(7) The Department of Education shall provide training to address the characteristics and instructional needs of students at risk of school failure and most likely to drop out of school. The training shall be developed to meet the specific needs of all certified and classified personnel depending on their relationship with these students. The training for instructional personnel shall be designed to provide and enhance skills of personnel to:

(a) Identify at-risk students early in elementary schools as well as at-risk and potential dropouts in the middle and high schools;

(b) Plan specific instructional strategies to teach at-risk students;

(c) Improve the academic achievement of students at risk of school failure by providing individualized and extra instructional support to increase expectations for targeted students;

(d) Involve parents as partners in ways to help their children and to improve their children's academic progress; and

(e) Significantly reduce the dropout rate of all students.

(8) By July 1, 2001, the department shall establish teacher academies to the extent funding is available in cooperation with postsecondary education institutions for elementary, middle school, and high school faculty in core disciplines, utilizing facilities and faculty from universities and colleges, local school districts, and other appropriate agencies throughout the state. Priority for participation shall be given to those teachers who are teaching core discipline courses for which they do not have a major or minor or the equivalent. Participation of teachers shall be voluntary.

Section 3. KRS 158.805 is amended to read as follows:

(1) There is hereby created the Commonwealth school improvement fund to assist local schools in pursuing new and innovative strategies to meet the educational needs of the school's students and raise the school's performance level. ***Except for the school years 2002-2003 and 2003-2004 when the priority for the use of the fund shall be to provide technical assistance to schools to reduce the achievement gaps among the various groups of students as described in Section 1 of this Act,*** the Kentucky Board of Education shall utilize the Commonwealth school improvement fund to provide grants to schools for the following purposes:

(a) To support teachers and administrators in the development of sound and innovative approaches to improve instruction or management;

(b) To assist in replicating successful programs developed in other districts ***including those calculated to reduce achievement gaps as defined in Section 1 of this Act***;

(c) To encourage cooperative instructional or management approaches to specific school educational problems; and

(d) To encourage teachers and administrators to conduct experimental programs to test concepts and applications being advanced as solutions to specific educational problems.

(2) The Kentucky Board of Education shall develop criteria for awards of grants from the Commonwealth school improvement fund to schools identified by the board as needing assistance under KRS 158.6455.

(3) The Kentucky Board of Education shall have the sole authority to approve grants from the fund.

(4) The Kentucky Board of Education may establish priorities for the use of the funds and, through the Department of Education, shall provide assistance to schools in preparing their grant proposals. The board shall require that no funds awarded under the Commonwealth school improvement fund are used to supplant funds from any other source. Requests for necessary equipment may be approved at the discretion of the state board, however the cost of equipment purchased by any grantee shall not exceed twenty percent (20%) of the total amount of money awarded for each proposal and shall be matched by local funds on a dollar for dollar basis.

(5) The Kentucky Board of Education shall establish maximums for specific grant awards. All fund recipients shall provide the board with an accounting of all money received from the fund and shall report the results and conclusions of any funded projects to the Kentucky Board of Education. All fund recipients shall provide the board with adequate documentation of all projects to enable replication of successful projects in other areas of the state.

Section 4. KRS 160.340 is amended to read as follows:

(1) Each board of education shall, on the forms prepared by the chief state school officer and approved by the Kentucky Board of Education, prepare and submit to the Kentucky Board of Education reports on all phases of its school service. Each board may prepare and publish for the information of the public a report on the progress of its schools.

(2) Each board of education shall file in the board's office its policies relating to the following matters:

(a) Transportation of pupils;

(b) Discipline and conduct of pupils;

(c) Limitations or restrictions on use of school facilities;

(d) Conduct of meetings of the board of education, including policies on the calling of executive sessions;

(e) Personnel policies that apply to certified employees, including fringe benefits, salary schedules, nonclassroom duties, in-service training, teacher-student ratio, hiring, assignment, transfer, dismissal, suspension, reinstatement, promotion, and demotion;

(f) Evaluation of certified employees;

(g) Selection of textbooks and instructional materials;

(h) Expenditure and accounting for school funds, including all special funds; and

(i) Policies dealing with school-based decision making.

(3) The local board of education may adopt a policy requiring that each school council, or if none exists, the principal, make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board.

(4) ***The local board shall annually in a public meeting review the portion of each school's consolidated plan that sets forth the activities and schedule to reduce the achievement gaps among the various groups of students as required in Section 1 of this Act. If a district has more than twenty (20) schools, the district may review the achievement gap data of each school in a comprehensive district report at a regularly scheduled meeting of the board. The report shall include the schools' and district's plans to reduce any identified gaps in student achievement.***

(5) It is intended that these policies shall cover matters within the authority and discretion of the district board of education and not matters otherwise required by law or regulation. Such policies shall be filed in the board's office by August 15, 1974, shall be kept up to date by filing annual amendments thereto each August 15 and shall be public records.

Section 5. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;

2. Instructional programs operated in institutions or schools outside of the district; or

3. Alternative schools designed to provide services to at-risk populations with unique needs;

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers; and

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or

2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal or head teacher shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;

(h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with subsection (2)(i)10. of this section. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. When a vacancy in the school principalship occurs, the school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request when qualified applicants are available;

(i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;

2. Assignment of all instructional and noninstructional staff time;

3. Assignment of students to classes and programs within the school;

4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;

5. Determination of use of school space during the school day;

6. Planning and resolution of issues regarding instructional practices;

7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;

8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;

9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and

10. Procedures to assist the council with consultation in the selection of personnel by the principal, including, but not limited to, meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; and

(j) Each school council shall annually review data on its students' performance as shown by the Commonwealth Accountability Testing System. The data shall include, but not be limited to, information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council***, with the involvement of faculty and staff,*** shall ***develop and*** adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b) ***by April 1 of each year and submit the plan to the superintendent and local board of education for review and approval as described in Section 4 of this Act***. The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than ***November 1***[~~December 31~~] of each year. If a school does not have a council, the review shall be completed by the principal.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;

(d) Professional development plans developed pursuant to KRS 156.095;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education, and school council members shall complete the required training no later than thirty (30) days after the beginning of the service

year for which they are elected to serve. By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements specified in KRS 156.095 ***except as provided in Section 1 of this Act***. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

The Committee Substitute to is as follows:

SB 168, AN ACT relating to reducing the achievement gaps in the public schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) "Achievement gap" means a substantive performance difference on each of the tested areas by grade level of the Commonwealth Accountability Testing System between the various groups of students including male and female students, students with and without disabilities, students with and without English proficiency, minority and nonminority students, and students who are eligible for free and reduced lunch and those who are not eligible for free and reduced lunch.

(2) By November 1 of each year, the Department of Education shall provide each school council, or the principal if a school council does not exist, data on its students' performance as shown by the Commonwealth Accountability Testing System. The data shall include, but not be limited to, information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, English proficiency, and participation in the federal free and reduced price lunch program. The information from the department shall include an equity analysis that shall identify the substantive differences among the various groups of students identified in subsection (1) of this section.

(3) By December 1, 2002, each local board of education upon the recommendation of the local district superintendent shall adopt a policy for reviewing the academic performance on the state assessments required under KRS 158.6453 for various groups of students, including major racial groups, gender, disability, free and reduced price school lunch eligibility, and limited English proficiency. The local board policy shall be consistent with Kentucky Board of Education administrative regulations. Upon agreement of the school-based decision making council, or the principal if there is not a council, and the superintendent, the local board shall establish a biennial target for each school for reducing identified gaps in achievement as set out in subsection (4) of this section.

(4) By February 1, 2003, and each February 1 in odd-numbered years thereafter, the school-based decision making council, or the principal if there is not a council, with the involvement of parents, faculty, and staff shall set the school's biennial targets for eliminating any achievement gap and submit them to the superintendent for consideration. The superintendent and the school-based decision making council, or the principal if there is not a council, shall agree on the biennial targets before they are submitted to the local board of education for adoption.

(5) By April 1, 2003, and each April 1 in odd-numbered years thereafter, the school council, or the principal if a school council does not exist, with the involvement of parents, faculty, and staff shall review the data and revise the consolidated plan to include the biennial targets, strategies, activities, and a time schedule calculated to eliminate the achievement gap among various groups of students to the extent it may exist. The plan shall include, but not be limited to, activities designed to address the following areas:

- *(a) Curriculum alignment within the school and with schools that send or receive the school's students;*
- *(b) Evaluation and assessment strategies to continuously monitor and modify instruction to meet student needs and support proficient student work;*
- *(c) Professional development to address the goals of the plan;*
- *(d) Parental communication and involvement;*
- *(e) Attendance improvement and dropout prevention; and*
- *(f) Technical assistance that will be accessed.*

(6) The principal shall convene a public meeting at the school to present and discuss the plan prior to submitting it to the superintendent and the local board of education for review, in the public meeting required under Section 4 of this Act.

(7) Based on the disaggregated biennial assessment results, the local board shall determine if each school achieved its biennial targets for each group of students. Only data for a group of students including ten (10) or more students shall be considered.

(8) Notwithstanding subsection (8) of Section 5 of this Act and KRS 158.070(8), if a local board determines that a school has not met its biennial target to reduce the identified gap in student achievement for a group of students, the local board shall require the council, or the principal if no council exists, to submit its revisions to the consolidated plan describing the use of professional development funds and funds allocated for continuing education to reduce the school's achievement gap for review and approval by the superintendent. The plan shall address how the school will meet the academic needs of the students in the various groups identified in subsection (1) of this section.

(9) The superintendent shall report to the commissioner of education if a school fails to meet its targets to reduce the gap in student achievement for any student group for two (2) successive biennia. The school's consolidated plan shall be subject to review and approval by the Kentucky Department of Education and the school shall submit an annual status report. The Department of Education may provide assistance to schools as it deems necessary to assist the school in meeting its goals.

(10) The school-based decision making council, or the principal if there is not a council, shall no longer be required to seek approval of the plan under subsections (8) and (9) of this section when it meets its biennial target for reducing the gap in student achievement for the various groups of students identified in subsection (1) of this section.

Section 2. KRS 156.095 is amended to read as follows:

(1) The Kentucky Department of Education shall establish, direct, and maintain a statewide program of professional development to improve instruction in the public schools.

(2) Each local school district superintendent shall appoint a certified school employee to fulfill the role and responsibilities of a professional development coordinator who shall disseminate professional development information to schools and personnel. Upon request by a school council or any employees of the district, the coordinator shall provide technical assistance to the council or the personnel that may include assisting with needs assessments, analyzing school data, planning and evaluation assistance, organizing districtwide programs requested by school councils or groups of teachers, or other coordination activities.

- (a) The manner of appointment, qualifications, and other duties of the professional development coordinator shall be established by Kentucky Board of Education through promulgation of administrative regulations.
- (b) The local district professional development coordinator shall participate in the Kentucky Department of Education annual training program for local school district professional development coordinators. The training program may include, but not be limited to, the demonstration of various approaches to needs assessment and planning; strategies for implementing long-term, school-based professional development; strategies for strengthening teachers' roles in the planning, development, and evaluation of professional development; and demonstrations of model professional development programs. The training shall include information about teacher learning opportunities relating to the core content standards. The Kentucky Department of Education shall regularly collect and distribute this information.

(3) The Kentucky Department of Education shall provide or facilitate optional, professional development programs for certified personnel throughout the Commonwealth that are based on the statewide needs of teachers, administrators, and

other education personnel. Programs may include classified staff and parents when appropriate. Programs offered or facilitated by the department shall be at locations and times convenient to local school personnel and shall be made accessible through the use of technology when appropriate. They shall include programs that: address the goals for Kentucky schools as stated in KRS 158.6451***, including reducing the achievement gaps as determined by an equity analysis of the disaggregated student performance data from the Commonwealth Accountability Testing System***; engage educators in effective learning processes and foster collegiality and collaboration; and provide support for staff to incorporate newly acquired skills into their work through practicing the skills, gathering information about the results, and reflecting on their efforts. Professional development programs may include, but not be limited to, focus on the following areas:

(a) ***Strategies to reduce the achievement gaps among various groups of students;***

(b) Curriculum content and methods of instruction for each content area;

(c)[~~(b)~~]School-based decision making;

(d)[~~(c)~~]Performance-based student assessment;

(e)[~~(d)~~]Nongraded primary programs;

(f)[~~(e)~~] Research-based instructional practices;

(g)[~~(f)~~] Instructional uses of technology;

(h)[~~(g)~~] Curriculum design to serve the needs of students with diverse learning styles and skills and of students of diverse cultures;

(i)[~~(h)~~] Instruction of phonics;

(j)[~~(i)~~] Educational leadership; and

(k)[~~(j)~~] Strategies to incorporate character education throughout the curriculum.

(4) The department shall utilize its regional service centers, in addition to collaboration with postsecondary education institutions, education cooperative and consortia, and professional education organizations, to provide local district personnel with access to high quality programming. The department shall assist school personnel in assessing the impact of professional development on their instructional practices and student learning.

(5) The department shall assist districts and school councils with the development of long-term school and district improvement plans that include multiple strategies for professional development based on the assessment of needs at the school level.

(a) Professional development strategies may include, but are not limited to, participation in subject matter academies, teacher networks, training institutes, workshops, seminars, and study groups; collegial planning; action research; mentoring programs; appropriate university courses; and other forms of professional development.

(b) In planning the use of the four (4) days for professional development under KRS 158.070, school councils and districts shall give priority to programs that increase teachers' understanding of curriculum content and methods of instruction appropriate for each content area based on individual school plans. The district may use up to one (1) day to provide district-wide training and training that is mandated by state or federal law. Only those employees identified in the mandate or affected by the mandate shall be required to attend the training.

(c) State funds allocated for professional development shall be used to support professional development initiatives that are consistent with local school improvement and professional development plans and teachers' individual growth plans. The funds may be used throughout the year for all staff, including classified and certified staff and parents on school councils or committees. A portion of the funds allocated to each school council under KRS 160.345 may be used to prepare or enhance the teachers' knowledge and teaching practices related to the content and subject matter that are required for their specific classroom assignments.

(6) The Department of Education shall establish an electronic consumer bulletin board that posts information regarding professional development providers and programs as a service to school district central office personnel, school councils, teachers, and administrators. Participation on the electronic consumer bulletin board shall be voluntary for professional development providers or vendors, but shall include all programs sponsored by the department. Participants shall provide the following information: program title; name of provider or vendor; qualifications of the presenters or instructors; objectives of the program; program length; services provided, including follow-up support; costs for participation and costs of materials; names of previous users of the program, addresses, and telephone numbers; and arrangements required. Posting information on the bulletin board by the department shall not be viewed as an endorsement of the quality of any specific provider or program.

(7) The Department of Education shall provide training to address the characteristics and instructional needs of students at risk of school failure and most likely to drop out of school. The training shall be developed to meet the specific needs of all certified and classified personnel depending on their relationship with these students. The training for instructional personnel shall be designed to provide and enhance skills of personnel to:

(a) Identify at-risk students early in elementary schools as well as at-risk and potential dropouts in the middle and high schools;

(b) Plan specific instructional strategies to teach at-risk students;

(c) Improve the academic achievement of students at risk of school failure by providing individualized and extra instructional support to increase expectations for targeted students;

(d) Involve parents as partners in ways to help their children and to improve their children's academic progress; and

(e) Significantly reduce the dropout rate of all students.

(8) By July 1, 2001, the department shall establish teacher academies to the extent funding is available in cooperation with postsecondary education institutions for elementary, middle school, and high school faculty in core disciplines, utilizing facilities and faculty from universities and colleges, local school districts, and other appropriate agencies throughout the state. Priority for participation shall be given to those teachers who are teaching core discipline courses for which they do not have a major or minor or the equivalent. Participation of teachers shall be voluntary.

Section 3. KRS 158.805 is amended to read as follows:

(1) There is hereby created the Commonwealth school improvement fund to assist local schools in pursuing new and innovative strategies to meet the educational needs of the school's students and raise the school's performance level. ***Except for the school years 2002-2003 and 2003-2004 when the priority for the use of the fund shall be to provide technical assistance to schools identified under subsection (2) of this section to reduce the achievement gaps among the various groups of students as described in Section 1 of this Act,*** the Kentucky Board of Education shall utilize the Commonwealth school improvement fund to provide grants to schools for the following purposes:

(a) To support teachers and administrators in the development of sound and innovative approaches to improve instruction or management;

(b) To assist in replicating successful programs developed in other districts ***including those calculated to reduce achievement gaps as defined in Section 1 of this Act***;

(c) To encourage cooperative instructional or management approaches to specific school educational problems; and

(d) To encourage teachers and administrators to conduct experimental programs to test concepts and applications being advanced as solutions to specific educational problems.

(2) The Kentucky Board of Education shall develop criteria for awards of grants from the Commonwealth school improvement fund to schools identified by the board as needing assistance under KRS 158.6455.

(3) The Kentucky Board of Education shall have the sole authority to approve grants from the fund.

(4) The Kentucky Board of Education may establish priorities for the use of the funds and, through the Department of Education, shall provide assistance to schools in preparing their grant proposals. The board shall require that no funds awarded under the Commonwealth school improvement fund are used to supplant funds from any other source. Requests for necessary equipment may be approved at the discretion of the state board, however the cost of equipment purchased by any grantee shall not exceed twenty percent (20%) of the total amount of money awarded for each proposal and shall be matched by local funds on a dollar for dollar basis.

(5) The Kentucky Board of Education shall establish maximums for specific grant awards. All fund recipients shall provide the board with an accounting of all money received from the fund and shall report the results and conclusions of any funded projects to the Kentucky Board of Education. All fund recipients shall provide the board with adequate documentation of all projects to enable replication of successful projects in other areas of the state.

Section 4. KRS 160.340 is amended to read as follows:

(1) Each board of education shall, on the forms prepared by the chief state school officer and approved by the Kentucky Board of Education, prepare and submit to the Kentucky Board of Education reports on all phases of its school service. Each board may prepare and publish for the information of the public a report on the progress of its schools.

(2) Each board of education shall file in the board's office its policies relating to the following matters:

(a) Transportation of pupils;

(b) Discipline and conduct of pupils;

(c) Limitations or restrictions on use of school facilities;

(d) Conduct of meetings of the board of education, including policies on the calling of executive sessions;

(e) Personnel policies that apply to certified employees, including fringe benefits, salary schedules, nonclassroom duties, in-service training, teacher-student ratio, hiring, assignment, transfer, dismissal, suspension, reinstatement, promotion, and demotion;

(f) Evaluation of certified employees;

(g) Selection of textbooks and instructional materials;

(h) Expenditure and accounting for school funds, including all special funds; and

(i) Policies dealing with school-based decision making.

(3) ***(a)*** The local board of education may adopt a policy requiring that each school council, or if none exists, the principal,

make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board.

(b) Biennially, the local board shall review in a public meeting the portion of each school's consolidated plan that sets forth the activities and schedule to reduce the achievement gaps among the various groups of students as required in Section 1 of this Act. If a district has more than twenty (20) schools, the district may review the achievement gap data of each school in a comprehensive district report at a regularly scheduled meeting of the board. The report shall include the schools' and district's plans to reduce any identified gaps in student achievement.

(4) It is intended that these policies shall cover matters within the authority and discretion of the district board of education and not matters otherwise required by law or regulation. Such policies shall be filed in the board's office by August 15, 1974, shall be kept up to date by filing annual amendments thereto each August 15 and shall be public records.

Section 5. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;

2. Instructional programs operated in institutions or schools outside of the district; or

3. Alternative schools designed to provide services to at-risk populations with unique needs;

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers; and

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or

2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal or head teacher shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;

(h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with subsection (2)(i)10. of this section. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. When a vacancy in the school principalship occurs, the school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request when qualified applicants are available;

(i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;
2. Assignment of all instructional and noninstructional staff time;
3. Assignment of students to classes and programs within the school;
4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
5. Determination of use of school space during the school day;
6. Planning and resolution of issues regarding instructional practices;
7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;
9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and
10. Procedures to assist the council with consultation in the selection of personnel by the principal, including, but not limited to, meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; and

(j) Each school council shall annually review data on its students' performance as shown by the Commonwealth Accountability Testing System. The data shall include, but not be limited to, information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council***, with the involvement of parents, faculty and staff,*** shall ***develop and*** adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b) ***by April 1 of each year and submit the plan to the superintendent and local board of education for review as described in Section 4 of this Act***. The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than ***November 1***[~~December 31~~] of each year. If a school does not have a council, the review shall be completed by the principal ***with the involvement of parents, faculty, and staff***.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;

(d) Professional development plans developed pursuant to KRS 156.095;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education, and school council members shall complete the required training no later than thirty (30) days after the beginning of the service year for which they are elected to serve. By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The

school council shall plan professional development in compliance with requirements specified in KRS 156.095***, except as provided in Section 1 of this Act***. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

SB 192, AN ACT relating to teachers' certification.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.030 is amended to read as follows:

(1) Notwithstanding the age of the pupil, the certification of all teachers and other school personnel, in public schools only, is vested in the Education Professional Standards Board. When so certified, teachers and other school personnel shall not be required to have licensure, certification, or other forms of approval from any other state agency for the performance of their respective assignments within the common schools, except as provided for by law. All certificates authorized under KRS 161.010 to 161.126 shall be issued in accordance with the administrative regulations of the Education Professional Standards Board. After July 15, 1994, all certificate applications and other data collection instruments of the board shall include a request for voluntary information about the applicant's ethnic background. This information shall be available to help local school districts locate minority candidates. A person who holds a certificate prior to this requirement may request that ethnic information be added to his or her file. Nothing in this section shall preclude the right of an individual in a nonpublic school from seeking voluntary certification by the Education Professional Standards Board.

(2) Certificates shall be issued upon written application and in accordance with statutes and regulations in effect at the time of application to persons who have completed, at colleges, universities, or local school district programs approved by the Education Professional Standards Board for the preparation of teachers and other school personnel, the curricula prescribed by the administrative regulations of the Education Professional Standards Board.

(3) ***(a)*** Certification of all new teachers and teachers seeking additional certification shall require the successful completion of appropriate assessments prior to certification. The assessments shall be selected by the Education Professional Standards Board and shall measure knowledge in the specific teaching field of the applicant, including content of the field and teaching of that content. The Education Professional Standards Board shall determine the minimum acceptable level of achievement on each assessment. The assessments shall measure those concepts, ideas, and facts which are being taught in teacher education programs in Kentucky. Upon successful completion of the assessments and the approved teacher preparation program, a certificate valid for one (1) year shall be issued.

(b) If an applicant for teacher certification has completed the approved teacher preparation program and has taken but failed to successfully complete the appropriate assessments selected by the Education Professional Standards Board, a conditional certificate may be issued for a period not to exceed one (1) year, if the employing school district, in collaboration with the teacher education institution, agrees to provide technical assistance and mentoring support to the conditionally certified teacher. The teacher shall retake the assessments during the validity period of the conditional certificate. The conditional certificate shall not be reissued. Upon successful completion of the required assessments, a certificate valid for one (1) year shall be issued and the teacher shall be eligible to participate in the internship program as provided in subsection (5) of this section. The teacher shall not be eligible to participate in the internship program while teaching on the conditional certificate. The Education Professional Standards Board shall promulgate administrative regulations to establish the standards and procedures for issuance of the conditional certificate.

(c) If an out-of-state teacher with less than two (2) years' experience comes to Kentucky after the deadline for taking the assessments, a temporary certificate may be issued for a period up to six (6) months provided the local board cannot fill the vacant position with a certified teacher. The teacher shall take the assessments if they are administered during the period of the temporary certificate. The certificate shall be extended for the remainder of the year if the teacher successfully completes the assessments. If the teacher fails the assessments, the temporary certificate shall be valid only for the current semester.

(4) A reasonable fee to be paid by the teacher and directly related to the actual cost of the administration of the assessments shall be established by the Education Professional Standards Board. Provisions shall be made for persons having less than minimum levels of performance on any assessment to repeat that assessment, and candidates shall be informed of their strengths and weaknesses in the specific performance areas. The Education Professional Standards Board shall provide for confidentiality of the individual assessment scores. Scores shall be available only to the candidate and to the education officials who are responsible for determining whether established certification standards have been met. Scores shall be used only in the assessment for certification of new teachers and of out-of-state teachers with less than two (2) years of teaching experience who are seeking initial certification in Kentucky.

(5) ***Except as provided in subsection (3)(b) of this section,*** all new teachers and out-of-state teachers with less than two (2) years of successful teaching experience who are seeking initial certification in Kentucky shall serve a one (1) year internship. The teacher shall be a full-time employee or shall have an annual contract and serve on at least a half-time basis and shall have supervision, assistance, and assessment during the one (1) year internship. The internship may be served in a public school or a nonpublic school which meets the state performance standards as established in KRS 156.160 or which has been accredited by a regional or national accrediting association. Successful completion shall be determined by a majority vote of the beginning teacher committee. The internship period shall be counted as experience for the purpose of continuing contract status, retirement eligibility, and benefits for single salary experience increments. Upon successful completion of the beginning teacher program, the one (1) year initial teaching certificate shall be extended for the remainder of the usual duration period established for that particular certificate by Education Professional Standards Board administrative regulations.

(6) The beginning teacher committee shall be composed of three (3) persons who have successfully completed special training in the supervision and assessment of the performance of beginning teachers as provided in subsection (8) of this section, except as provided in paragraph (g) of this subsection. The committee shall consist of a resource teacher, the school principal of the school where the internship is served, and a teacher educator appointed by a state-approved teacher training institution.

(a) If more than two (2) teacher interns are employed in the same school, the principal's responsibility may be shared with an assistant principal who holds certification as a principal.

(b) In unusual situations, the Education Professional Standards Board may permit the assistant principal to serve in lieu of the principal on a beginning teacher committee.

(c) If the teacher training institution is unable to provide a member, the district superintendent shall appoint an instructional supervisor from the school district.

(d) If the intern is teaching in a regionally or nationally accredited nonpublic school without a principal, the person filling the principal member position may have other appropriate qualifications as required by administrative regulations promulgated by the Education Professional Standards Board.

(e) If the teacher training institution is unable to provide a member to serve on the beginning teacher committee in a nonpublic school, the chief officer of the school shall appoint an instructional supervisor or a teacher with like qualifications and responsibilities to serve on the beginning teacher committee in lieu of the teacher educator.

(f) The resource teacher shall be appointed by the Education Professional Standards Board with recommendations from the local school district from a pool of qualified resource teachers, and, any statutes to the contrary notwithstanding and to the extent of available appropriations, shall be entitled to be paid a reasonable stipend by the Education Professional Standards Board for work done outside normal working hours. In the case of a resource teacher in a nonpublic school, payment shall be made directly to the resource teacher by the Education Professional Standards Board. Priority shall be given to resource teachers in the following order, except as provided in paragraph (g) of this subsection:

1. Teachers with the same certification in the same school;
2. Teachers with the same certification in the same district;
3. Teachers in the same school;
4. Teachers in the same district; and
5. Teachers in an adjacent school district.

(g) 1. The resource teacher for an individual pursuing initial certification as a baccalaureate level teacher of exceptional children/communication disorders shall be a master's level teacher of exceptional children/communication disorders, if one is available.

2. If a master's level teacher of exceptional children/communication disorders is not available, the Education Professional Standards Board may allow a licensed speech-language pathologist to serve on the beginning teacher committee in lieu of a resource teacher.

(h) The committee shall meet with the beginning teacher a minimum of three (3) times per year for evaluation and recommendation with all committee members present. In addition, each member of the committee shall observe the beginning teacher in the classroom a minimum of three (3) times per year. If the teacher's first year performance is judged by the committee to be less than satisfactory, the teacher shall be provided with an opportunity to repeat the internship one (1) time if the teacher is employed by a school district.

(7) The resource teacher shall spend a minimum of seventy (70) hours working with the beginning teacher. Twenty (20) of these hours shall be in the classroom setting, and fifty (50) of these hours shall be in consultation other than class time or attending assessment meetings. The resource teacher shall have completed at least four (4) years of successful teaching experience as attested to by his or her immediate supervisor or by having achieved tenure and be able to show evidence of continuing professional development by having achieved a master's degree or its equivalent or the accumulation of two thousand (2,000) hours of continuing professional activities.

(8) By contract with teacher education institutions in the Commonwealth, the Education Professional Standards Board shall provide special training for persons who will be serving on the beginning teacher committees. Completion of special training shall be evidenced by successfully passing the assessments as prescribed by the Education Professional Standards Board. A principal hired after July 15, 1996, shall be required to complete the beginning teacher committee training program within one (1) year after his or her appointment.

(9) If an applicant establishes eligibility for a one (1) year certificate under the provisions of subsection (3)***(a)*** of this section, but does not become employed on the basis needed to satisfy the one (1) year internship requirement, the applicant shall be eligible for the issuance of a certificate for substitute teaching as provided by the administrative regulations of the Education Professional Standards Board. The applicant shall remain eligible for the one (1) year certificate, as provided in subsection (3)***(a)*** of this section, and for the opportunity to serve the internship for a period of five (5) years after establishing eligibility. If the internship is not completed within the five (5) year period, the applicant must reestablish eligibility by repeating and passing the assessment program in effect for new teachers at that time or by completing a minimum of six (6) graduate hours toward completion of a graduate program required by administrative regulations promulgated by the Education Professional Standards Board. The option for renewal through completion of graduate hours shall be available only for the first reestablishment of eligibility.

(10) The Education Professional Standards Board shall approve the curricula of any college or university, or of any department thereof, for the training of teachers, and any nontraditional or alternative teacher preparation program offered in a public or private postsecondary education institution, private contractor, or state agency, and shall also approve the curricula of any local district alternative certification program, when the curricula comply with the administrative regulations of the Education Professional Standards Board for the issuance of certificates and when the institution has met the terms and conditions provided in KRS 161.010 to 161.120. Any student who has completed any of these curricula, as approved by the Education Professional Standards Board, and who has completed the prescribed requirements for the issuance of certificates shall be granted a certificate corresponding to the curricula completed.

Section 2. The Education Professional Standards Board shall conduct a study during the 2002-2003 school year with at least one (1) school district and at least one (1) teacher education institution to evaluate the reliability, validity, and efficacy of one (1) or more alternative assessment instruments for testing a new teacher's content knowledge and teaching skills. If a teacher candidate successfully completes an alternative assessment under the provisions of this study, the candidate may receive a statement of eligibility upon recommendation of the employing superintendent, the teacher education institution, and the Education Professional Standards Board. The Education Professional Standards Board shall report the findings of the study to the Interim Joint Committee on Education by October 1, 2003.

SB 211, AN ACT relating to teacher tribunals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.790 is amended to read as follows:

(1) The contract of a teacher shall remain in force during good behavior and efficient and competent service by the teacher and shall not be terminated except for any of the following causes:

(a) Insubordination, including but not limited to violation of the school laws of the state or administrative regulations adopted by the Kentucky Board of Education, the Education Professional Standards Board, or lawful rules and regulations established by the local board of education for the operation of schools, or refusal to recognize or obey the authority of the superintendent, principal, or any other supervisory personnel of the board in the performance of their duties;

(b) Immoral character or conduct unbecoming a teacher;

(c) Physical or mental disability;

(d) Inefficiency, incompetency, or neglect of duty, when a written statement identifying the problems or difficulties has been furnished the teacher or teachers involved.

(2) Charges under subsections (1)(a) and (1)(d) of this section shall be supported by a written record of teacher performance by the superintendent, principal, or other supervisory personnel of the district, except when the charges are brought as a result of a recommendation made under KRS 158.6455.

(3) No contract shall be terminated except upon notification of the board by the superintendent. Prior to notification of the board, the superintendent shall furnish the teacher with a written statement specifying in detail the charge against the teacher. The teacher may within ten (10) days after receiving the charge notify the ***commissioner of education***[~~chief state school officer~~] and the superintendent of his intention to answer the charge, and upon failure of the teacher to give notice within ten (10) days, the dismissal shall be final.

(4) Upon receiving the teacher's notice of his intention to answer the charge, the ***commissioner of education***[~~chief state school officer~~] shall appoint a three (3) member tribunal, consisting of one (1) teacher***, who may be retired***, one (1) administrator***, who may be retired***, and one (1) lay person, none of whom reside in the district, to conduct an administrative hearing in accordance with KRS Chapter 13B within the district. ***Priority for selection as a tribunal member shall be from a pool of potential tribunal members who have been designated and trained to serve as tribunal members on a regular and ongoing basis, pursuant to administrative regulations promulgated by the Kentucky Board of Education. Funds appropriated to the Department of Education for professional development may be used to provide tribunal member training.*** The ***commissioner of education***[~~chief state school officer~~] shall name the chairman and set the date and time for the hearing. The hearing shall begin no later than forty-five (45) days after the teacher files the notice of intent to answer the charge.

(5) A hearing officer shall have final authority to rule on dispositive prehearing motions.

(6) The hearing may be public or private at the discretion of the teacher. At the hearing, a hearing officer appointed by the ***commissioner of education***[~~chief state school officer~~] shall preside with authority to rule on procedural matters, but the tribunal shall be the ultimate trier of fact. The local board shall pay each member of the tribunal a per diem of one hundred dollars ($100) and travel expenses.

(7) Upon hearing both sides of the case, the tribunal may by a majority vote render its decision or may defer its action for not more than five (5) days. Provisions of KRS Chapter 13B notwithstanding, the tribunal decision shall be a final order and may be rendered on the record.

(8) The superintendent may suspend the teacher pending final action to terminate the contract, if, in his judgment, the character of the charge warrants the action. If after the hearing the decision of the tribunal is against termination of the contract, the suspended teacher shall be paid his full salary for any period of suspension.

(9) The teacher shall have the right to make an appeal to the Circuit Court having jurisdiction in the county where the school district is located in accordance with KRS Chapter 13B. The review of the final order shall be conducted by the Circuit Court as required by KRS 13B.150.

(10) As an alternative to termination of a teacher's contract, the superintendent upon notifying the board and providing written notification to the teacher of the charge may impose other sanctions, including, suspension without pay, public reprimand, or private reprimand. The procedures set out in subsection (3) of this section shall apply if the teacher is suspended without pay or publicly reprimanded. The teacher may appeal the action of the superintendent if these sanctions are imposed in the same manner as established in subsections (4) to (9) of this section. Upon completion of a suspension period, the teacher may be reinstated.

The Committee on Natural Resources and Environment reported **HB 738,** and **HB 798,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 738, AN ACT relating to water withdrawal.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.140 is amended to read as follows:

No person, business, industry, city, county, water district, or other political subdivision shall have the right to withdraw, divert, or transfer public water from a stream, lake, ground water source or other body of water, unless such person, business, industry, city, county, water district or other political subdivision has been granted a permit by the cabinet for such withdrawal, diversion, or transfer of water. Provided, however, no permit shall be required for and nothing herein shall interfere with the use of water for agricultural and domestic purposes including irrigation; and no permit shall be required if the amount of water withdrawn, diverted or transferred is less than the amount established by regulation and no permit shall be required for water[~~ used in the production of steam generating plants of companies whose retail rates are regulated by the Kentucky Public Service Commission or for which plants a certificate of environmental compatibility from such commission is required by law, or water~~] injected underground in conjunction with operations for the production of oil or gas.

HB 798, AN ACT relating to water quality certifications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.16-070 is amended to read as follows:

(1) This section shall apply to the cabinet's issuance, waiver, or denial of water quality certifications for surface coal mining

operations, as defined in KRS 350.010, if:

(a) The applicant for the water quality certification has applied to the cabinet for a permit in accordance with KRS Chapter 350 and the administrative regulations promulgated pursuant thereto;

(b) The applicant for the water quality certification is eligible for Nationwide Permit 21[~~ or 26~~] issued in accordance with 33 U.S.C. sec. 1344 and 33 C.F.R. Part 330, Appendix A;

(c) The applicant's surface coal mining operation will not impact waters of the Commonwealth designated by the cabinet in its water quality standards as outstanding state or national resource waters or as cold water aquatic habitat; and

(d) The applicant's surface coal mining operation will not impact waters of the Commonwealth which are wetlands one (1) acre or more in size.

(2) If the watershed above the toe of the farthest downstream permanent structure authorized pursuant to Nationwide Permit 21[~~ or 26~~] is less than four hundred eighty (480) acres for the surface coal mining operation meeting the criteria of subsection (1) of this section, the cabinet shall issue a water quality certification containing only the standard conditions set out in paragraphs (a) to (e) of this subsection.

(a) All earthwork operations shall be carried out so that sediment runoff and soil erosion to waters of the Commonwealth are controlled and minimized. Best management practices for water pollution control shall be used by the surface coal mining operation.

(b) Heavy equipment, such as bulldozers, backhoes, and draglines, shall not be used or operated within waters of the Commonwealth outside of the boundaries of a permanent structure, unless that use cannot be avoided. If use of heavy equipment within waters of the Commonwealth outside the boundaries of a permanent structure is unavoidable, then the work shall be performed so as to minimize resuspension of sediments and disturbance to substrates, banks, or riparian vegetation.

(c) Measures shall be taken to prevent and to control spills of fuels, lubricants, and other materials from entering waters of the Commonwealth.

(d) Any fill or riprap shall be of a composition that shall not cause violations of water quality standards by adversely affecting the biological, chemical, or physical properties of waters of the Commonwealth. If riprap is used, it shall be of a weight and size that bank stress or slump conditions shall not occur.

(e) Removal of riparian vegetation outside the boundaries of a permanent structure shall be minimized.

(3) (a) If the watershed above the toe of the farthest downstream permanent structure authorized pursuant to Nationwide Permit 21[~~ or 26~~] is greater than or equal to four hundred eighty (480) acres for the surface coal mining operation meeting the criteria of subsection (1) of this section ***or if the activity requires an individual permit instead of Nationwide Permit 21***, the cabinet may require a water quality certification containing conditions in addition to those standard conditions identified in subsection (2) of this section for the purpose of protecting water quality.

(b) The water quality certification may require mitigation at a maximum ratio of one (1) acre of mitigation area for every one (1) acre of permanent loss of waters of the Commonwealth on the permitted area, except for waters of the Commonwealth isolated as a result of the permanent structure.

(c) For waters of the Commonwealth isolated as a result of a permanent structure, the maximum mitigation ratio shall be five-tenths (0.5) acre of mitigation area for every one (1) acre of those isolated waters.

(d) The cabinet shall accept mitigation on the permitted area, mitigation off the permitted area, mitigation banking of waters of the Commonwealth, or any combination thereof, or any other mitigation measure acceptable to the cabinet.

1. Physical mitigation measures which shall be accepted by the cabinet shall include, but not be limited to the following. Alternatives to these options shall be acceptable on a case-by-case basis at the approval of the Division of Water:

a. Removing abandoned sediment control structures at surface coal mining operations;

b. Improving chemically or physically impaired streams;

c. Upgrading existing wastewater treatment facilities of local communities;

d. Extending sanitary sewer lines to areas presently not served;

e. Preparing wastewater facility plans under 33 U.S.C. sec. 1281 for local entities lacking these planning documents;

f. Upgrading local roads, which directly impact water quality and aquatic habitat in state waters adjacent to the permitted area; and

g. Purchasing conservation easements for the purpose of developing riparian protection zones.

2. As an alternative to providing physical mitigation for losses of waters of the Commonwealth, the coal company may choose to pay into the in-lieu fund established by subsection (9) of this section to monetarily compensate for stream loss. This compensation shall be at the rate of two hundred thousand

dollars ($200,000) per acre of impacted stream.

(e) Upon completion of all mitigation work required by the water quality certification required by this subsection, the surface coal mining operation shall obtain a certification from a registered professional engineer that all mitigation work has been completed in accordance with the conditions of the water quality certification. The surface coal mining operation shall promptly submit the professional engineer's certification to the cabinet. The cabinet shall promptly review the certification and provide to the surface coal mining operation written notice that all mitigation work has been successfully completed, or that further mitigation work is necessary to meet the conditions imposed by the water quality certification.

(4) The cabinet shall not require a water quality certification for a road crossing on the permitted area impacting less than two hundred (200) linear feet of waters of the Commonwealth.

(5) The cabinet shall confer with representatives of the surface coal mining industry and representatives of environmental organizations with an interest in water quality ***every time the existing mitigation manual is modified***[~~in developing a manual of approvable options for mitigation on permitted areas, mitigation off permitted areas, mitigation involving banking of waters of the Commonwealth, and removal of temporary sediment structures at surface coal mining operations as a mitigation option~~].

(6) (a) The cabinet shall have ten (10) working days to make a determination that an application for a water quality certification is administratively complete or to notify the applicant of specific deficiencies.

(b) The cabinet shall have forty (40) working days to review an administratively complete application for a water quality certification, to issue or waive that certification, or to deny that certification with specific deficiencies identified, and to notify the applicant of the final determination. If the cabinet has not notified the applicant of its final determination within forty (40) days of receiving an administratively complete application, the water quality certification shall be deemed waived.

(7) Nothing in this section shall be construed as abrogating the cabinet's ability to require water quality certifications for surface coal mining operations that do not meet the criteria of subsection (1) of this section.

(8) The secretary shall establish a committee to assist and advise the cabinet on the management of any in-lieu fund receipts from a coal company deposited to the fund established by subsection (9) of this section. The committee shall consist of ten (10) individuals from the following groups:

(a) One (1) representative each from the U. S. Environmental Protection Agency, the U. S. Army Corps of Engineers, the Kentucky Department of Fish and Wildlife Resources, and the Division of Water;

(b) Two (2) representatives from academia;

(c) Two (2) representatives from industry, one (1) of which shall be the coal mining industry; and

(d) Two (2) representatives from the general public.

(9) Money received from a coal company under subsection (3)(d)2. of this section shall be paid into a trust and agency account to be called the in lieu fund established in the State Treasury. The fund shall be established as an interest bearing account and all interest earned on the money in the fund shall be retained for purposes of the fund. Money which is unexpended at the end of a fiscal year shall not lapse but shall be carried over to the following fiscal year. The cabinet shall administer the fund for the purpose of funding mitigation projects within a three (3) county region of the permitted area of the coal operator who has chosen to mitigate the effects of the coal operation by making the in lieu payment. All coal related in lieu fund contributions shall be spent only in a coal producing county. Any interest received from earnings on any coal company money shall be used for other mitigation projects in a coal producing county.

(10) The cabinet shall appoint a committee that will work toward reforming the existing water quality certification process into a more structured process for certification review, including time limits and establishing an administratively complete certification application.

The Committee Amendment No. 1 to **HB 798** is as follows:

On page 1, after the title, by inserting;

"WHEREAS, the Natural Resources and Environmental Protection Cabinet is responsible under state law for review and issuance or denial of certifications of consistency with state water quality standards for surface coal mining activities seeking approval from the United States Army Corps of Engineers for placement of dredged or fill material in waters of the United States within Kentucky; and

WHEREAS, persons seeking approval to place such material are obligated to comply with the provisions of the Clean Water Act; and

WHEREAS, the United States Army Corps of Engineers reviews requests by surface coal mining operations to place dredged or fill material in waters of the United States under individual permit applications or, when appropriate, under nationwide permits, including Nationwide Permit 21; and

WHEREAS, the United States Army Corps of Engineers allows, as an option for persons required to conduct mitigation for losses or impacts to streams, the payment of a fee in lieu of conducting mitigation on or off-site; and

WHEREAS, in lieu fees may be paid into a fund managed by the Kentucky Department of Fish and Wildlife Resources; and

WHEREAS, the General Assembly believes that any funds paid in lieu of physical mitigation should be expended in the coal counties in the watershed basin in which the activity is proposed; and

WHEREAS, the General Assembly recognizes that qualitative improvements in water quality through reduction of pollutant loadings from sources other than surface coal mining activities, such as improvements in local wastewater management, can enhance water quality and constitute positive mitigation measures;

NOW, THEREFORE,"; and

On page 1, after "Section 1.", by deleting all the text on page 1 thereafter and inserting;

"The United States Army Corps of Engineers, the United States Environmental Protection Agency, and United States Department of Fish and Wildlife are encouraged, and the Kentucky Department for Fish and Wildlife Resources is directed, to consider as acceptable compensatory mitigation measures for unavoidable impacts under Sections 404 and 401 of the federal Clean Water Act, any combination of the following where deemed adequate by those agencies to fully compensate for and mitigate adverse impacts of the proposed surface coal mining operation:

(a) Removing sediment control structures at abandoned surface mining operations and restoring the stream where the applicant has no legal responsibility to remove or reclaim the structure and the structure is not covered by a bond;

(b) Improving impaired streams for which the applicant has no legal responsibility;

(c) Constructing new or upgraded existing wastewater treatment facilities of local communities or homeowners;

(d) Extending sanitary sewers lines to areas presently not served;

(e) Funding the preparation of wastewater facility plans under 33 U.S.C. sec. 1281 for local entities lacking these planning documents where no other source of funding or assistance exists to assist the local entity;

(f) Relocating local road segments directly impacting water quality and aquatic habitat excluding access and haul roads which have been permitted and bonded under KRS Chapter 350; and

(g) Purchasing conservation easements for the purpose of providing permanent protection for riparian zones, where the applicant has no legal responsibility to conduct remediation or restoration on the property for which the easement will be purchased.

Section 2. Where the United States Army Corps of Engineers, the United States Environmental Protection Agency and the United States Department of Fish and Wildlife, the Kentucky Department for Fish and Wildlife Resources, or the Kentucky Division of Water, recommend or approve payment of fees as compensatory mitigation in lieu of effecting such mitigation, the federal agencies are encouraged and the state agencies are directed to assure that the in lieu payments are expended on projects that are located within the same watershed and coal-producing region as the activity causing the impacts for which the mitigation is proposed."; and

On pages 2 to 6, by deleting all the text thereon.

The Committee on Tourism Development and Energy reported **HB 204,** with Committee Substitute attached thereto, **HB 435,** with Committee Substitute attached thereto, and **HB 556,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 204, AN ACT relating to concessions in state parks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act, unless the context clearly indicates otherwise:

(1) "Concession" means a commercial activity that includes but is not limited to outfitter services, rafting, canoe and boat rental and livery services, fishing and hunting guide services, and horseback riding stables or services that are provided on lands within the state park system;

(2) "Concessionaire" means a person or entity that conducts a commercial concession activity on lands within the state park system under the authorization of the Department of Parks; and

(3) "Master agreement" means an agreement between a concessionaire and the Department of Parks, having a term of ten (10) years that establishes the terms and conditions for occupancy and use of land in state parks by an authorized concessionaire.

SECTION 2. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that the experience, skills, trained staff, and investment in equipment that are

provided by authorized concessionaires are necessary for members of the public to facilitate their use and enjoyment of recreational and educational opportunities within the state park system, and that such activities constitute an important contribution toward meeting the recreational and educational objectives of resource management plans administered by the Department of Parks; and that an effective relationship between the Department of Parks and concessionaires requires implementation of policies and programs that facilitate quality concession services to the public and for concessionaires to have a reasonable opportunity to engage in successful business ventures.

SECTION 3. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS Chapter 45A, the secretary of the Tourism Development Cabinet, in conjunction with the commissioner of the Department of Parks, shall establish standards for the evaluation of applications for and the issuance of master agreements to concessionaires by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The secretary of the Tourism Development Cabinet shall consult with the secretary of the Finance and Administration Cabinet when establishing standards to ensure that standards established pursuant to subsection (1) of this section do not conflict with the underlying purposes of KRS Chapter 45A.

(3) With respect to each individual or business entity making an application to the secretary of the Tourism Development Cabinet for a master agreement to operate a concession in state parks that are under the authority and supervision of the Department of Parks, the secretary of the Tourism Development Cabinet shall make inquiries and request materials of the applicant that shall include, but not be limited to, a description of the concession activity; capital and other anticipated expenditures for the concession and the anticipated sources of funding therefor; the anticipated employment and wages to be paid at the concession; business plans which indicate the average number of days in a year in which the concession will be in operation and open to the public; the skill, experience, and knowledge of the persons or entity under consideration; and the anticipated revenues and expenses generated by the concession.

(4) The secretary shall upon receipt of an application complete a review of the application and all supporting materials and take action thereon within ninety (90) days from the date of receipt.

(5) The standards for approval of an application for a master agreement shall include but not be limited to the applicant's skill, experience, and knowledge of the concession's activity, and financial capability of the persons or entity under consideration. Preference shall be given to current concessionaires who are satisfactorily fulfilling the terms of existing licenses and contractual agreements.

SECTION 4. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) The secretary, upon approval of an application for a master agreement, may issue a master agreement to a concessionaire. The terms and provisions of each master agreement shall include and provide for, but not be limited to:

- *(a) Specific requirements that protect the health and welfare of the public;*
- *(b) Specific requirements that concern the conservation of resources within the state park system;*
- *(c) A term of ten (10) years except as provided in subsection (2) of this section;*
- *(d) A return to the Commonwealth through an authorization fee in accordance with subsection (4) of this section;*
- *(e) A plan to conduct performance evaluations in accordance with Section 5 of this Act; and*
- *(f) A means to modify the terms and conditions of a master agreement to reflect material changes in facts and conditions.*

(2) The secretary shall issue a master agreement having a term of ten (10) years, with an initial probation period of two (2) years for a new authorized concessionaire, except that the secretary may, in extraordinary circumstances, issue a master agreement with a term of less than ten (10) years when:

- *(a) Foreseeable changes in the operation of a state park will create conditions that would materially impact and necessitate changes in the master agreement term and conditions in less than ten (10) years; or*
- *(b) The approved concessionaire and the secretary agree to a master agreement term of less than ten (10) years.*

(3) A master agreement shall be automatically renewed for an additional ten (10) year term provided that the concessionaire has received a minimum annual performance rating of "good" in seven (7) of the master agreement's ten (10) year term.

(4) A master agreement shall provide for payment to the Commonwealth of an authorization fee. In determining the amount of an authorization fee, the secretary shall take into consideration the obligations of a concessionaire under the master agreement, the provision of a reasonable opportunity to engage in a successful business, and the fair market value of the use and occupancy granted by the master agreement. In addition, the secretary shall consider the facilities and services provided to a concessionaire, including but not limited to: the facilities and maintenance provided thereto, security, utilities and sewerage, and parking.

(5) The amount of the fee paid to the Commonwealth for the term of the master agreement shall be specified in the master agreement. The amount of the fee shall be expressed as:

- *(a) A simple charge per day of actual use;*

(b) An annual or per season flat fee; or

(c) A flat percentage of annual gross receipts.

(6) The fee shall reflect the amount and extent of a concessionaire's activities that take place within a state park, such that if less than fifty percent (50%) of a concessionaire's activities occur within a state park, no more than fifty percent (50%) of the fee shall be charged to the concessionaire. The fee shall be required to be paid by an authorized concessionaire on a reasonable schedule during the operating season of the concession activity.

(7) A master agreement shall not be transferred, assigned, or conveyed by the authorized concessionaire without prior written notification to, and approval by, the secretary of the Tourism Development Cabinet. A change in ownership of a commercial entity shall not be considered as transferring, assigning, or conveying a master agreement.

SECTION 5. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) The secretary shall, by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, develop a process for annual evaluation of the performance of an authorized concessionaire in conducting the activity under the master agreement. Criteria used by the secretary to evaluate the performance of an authorized concessionaire shall be objective, measurable, and attainable, and shall be generally applicable to all concession activities.

(2) The secretary shall define three (3) levels of performance, which are:

(a) Good, indicating a level of performance that fulfills the terms and conditions of the master agreement;

(b) Marginal, indicating a level of performance that, if not corrected, will result in an unsatisfactory level of performance; and

(c) Unsatisfactory, indication a level of performance that fails to fulfill the terms and conditions of the master agreement.

(3) The secretary shall establish a performance evaluation system that assures the Commonwealth and the public of the continued availability of dependable concessionaire activities and suspends or revokes a master agreement for a concessionaire that fails to meet the required standards.

(4) The evaluation procedure shall allow for a concessionaire:

(a) To be present or represented at inspections of operations or facilities described under the terms of a master agreement;

(b) To receive written notice of any conduct or condition that, if not corrected, may lead to a performance evaluation of marginal or unsatisfactory, which shall include an explanation of needed corrections and provide a reasonable period in which the corrections may be made without penalty; and

(c) To receive written notice of the results of the performance evaluation not later than sixty (60) days after the conclusion of the concessionaire's operating season, including the level of performance and the status of corrections that may have been required.

(5) If an authorized concessionaire's annual performance is determined to be marginal, and if the concessionaire fails to complete the corrections within the time specified under subsection (4)(b) of this section, the level of performance shall be determined to be unsatisfactory for that year.

(6) If in any year of the term of a master agreement the secretary fails to evaluate the performance of the authorized concessionaire's activity by the date that is sixty (60) days after the conclusion of the authorized concessionaire's operating season, the performance of the authorized concessionaire in that year shall be considered to have been good.

(7) If a newly authorized concessionaire receives an unsatisfactory performance rating during the initial two (2) year probationary period of the master agreement, the secretary may suspend or revoke the concessionaire's authorization to continue its business activities in the state park under the applicable master agreement.

(8) If an authorized concessionaire receives an unsatisfactory performance rating after the initial two (2) year probationary period of the master agreement, the secretary may suspend or revoke the concessionaire's authorization to continue its business activities in the state park under the applicable master agreement only if the secretary determines that:

(a) The authorized concessionaire has failed to correct a condition for which the concessionaire has received notice under subsection (4) of this section and the condition is considered by the secretary to be significant with respect to the terms and conditions of the master agreement;

(b) The authorized concessionaire is in arrears in the payment of fees under subsection (3) of Section 4 of this Act and has not entered into a payment plan that is acceptable to the secretary;

(c) The authorized concessionaire's conduct demonstrates willful disregard for the health and welfare of the public; or

(d) The authorized concessionaire's conduct demonstrates willful disregard for the conservation of resources on which its activities are conducted.

(9) An authorized concessionaire shall keep such reasonable records as the secretary may require to enable the secretary to determine that all of the terms and conditions of the master agreement are being met.

SECTION 6. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

The issuance of a master agreement under Section 4 of this Act shall not adversely affect any right or obligation that existed under previous agreements, permits, contracts, or other authorizations that are in effect on the effective date of this Act.

The Committee Substitute to **HB 204** is as follows:

HB 204, AN ACT relating to concessions in state parks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Interim Joint Committee on Economic Development and Tourism shall study the process of evaluating applicants and issuing master agreements for concessionaires in state parks. The study shall examine commercial concession activities in state parks and shall include but not be limited to food services, outfitter services, rafting, canoe and boat rental and livery services, fishing and hunting guide services, and horseback riding stables or services that are provided on lands within the state park system. The committee shall report its findings and recommendations to the Legislative Research Commission no later than December 1, 2002.

Section 2. Provisions of this statute to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

HB 435, AN ACT relating to fair competition in the marketing of motor fuel.

WHEREAS, the General Assembly finds that the marketing of motor fuel in the Commonwealth affects the public interest; and

WHEREAS, the General Assembly finds that independent and small dealers and distributors of motor fuel are vital to a healthy, competitive marketplace and that certain marketing practices are contrary to the public interest because they impair a fair, competitive environment and tend to create and foster monopolies; and

WHEREAS, the General Assembly finds that independent and small dealers and distributors of motor fuel have made significant investments in property, equipment and environmental controls for the purpose of making motor fuel available to all areas of the Commonwealth; and

WHEREAS, the General Assembly finds that independent and small dealers and distributors cannot survive in a market environment that allows certain pricing schemes at the wholesale or retail level; and

WHEREAS, the General Assembly finds that subsidized pricing of motor fuel is inherently unfair, reduces competition, and ultimately tends to increase the price of motor fuel while decreasing the accessibility and availability of motor fuel in some areas; and

WHEREAS, the General Assembly finds that unfair competition that injures a single competitor results in injury to the entire market, thus creating an environment that injures and is contrary to the public interest; and

WHEREAS, the General Assembly declares it is the legislature's intent to encourage fair and honest competition, and to safeguard the public against the creation of monopolies or other unfair methods of competition, involving the sale of motor fuel in both the wholesale and retail trades within the Commonwealth; and

WHEREAS, the General Assembly declares that it is an unfair trade practice to advertise, offer for sale, or sell motor fuel below cost or at a cost lower than that charged other persons on the same marketing level; and

WHEREAS, the General Assembly declares it to be the policy of the Commonwealth to promote the general welfare through the prohibition of unfair trade practices; and

WHEREAS, the General Assembly declares the purpose of this Act is to carry out fair competition in the public's interest, provide for exceptions under limited circumstances; provide for the enforcement of the provisions of this Act, and to provide penalties for violating the provisions of this Act;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 of this Act unless the context otherwise requires:

(1) "Affiliate" means a person who is controlled by, or under common control with, any refiner, other than by means of a franchise;

(2) "Competition" means the vying for motor fuel sales between two (2) or more sellers in the same relevant geographic market at the same level of distribution;

(3) "Dealer" means a person, other than a refiner or a wholesaler, who is engaged in the business of selling motor fuel at

a retail facility;

(4) "Motor fuel" means motor fuel as defined in KRS 363.900;

(5) "Nonrefiner" means a person other than a refiner, engaged in the sale of motor fuel;

(6) "Nonrefiner cost" means the nonrefiner's invoice cost of the motor fuel, by grade, less credit card allowances, trade discounts, and rebates actually received, to which shall be added federal, state, and local taxes and inspection fees applicable to motor fuel; freight charges at the retail facility; and amortized costs attributed to the UST system;

(7) "Person" means an individual, firm, association, organization, partnership, business trust, joint stock company, company, corporation, or legal entity;

(8) "Posted terminal price" means a refiner's posted price at a terminal, by grade of motor fuel, to the wholesale class of trade within a relevant geographic market. If a refiner does not have a posted terminal price in a relevant geographic market, the refiner's posted terminal price shall be deemed to be no lower than the lowest posted terminal price of motor fuel of like grade and quality of any other refiner selling to the wholesale class of trade in the relevant geographic market;

(9) "Refiner" means a person who stores or exchanges motor fuel at a terminal facility inside or outside the boundaries of the Commonwealth and who sells or transfers motor fuel through the loading rack at a terminal facility, or produces or refines motor fuel, whether the production or refining occurs within the boundaries of the Commonwealth or elsewhere, and includes an affiliate of the refiner with respect to the affiliate's sale of motor fuel;

(10) "Refiner cost" means a refiner's posted terminal price plus state, federal, and local taxes, inspection fees applicable to motor fuel, freight charges to the refiner's retail facility, and amortized costs attributed to the UST system;

(11) "Relevant geographic market" means the geographic area of effective competition;

(12) "Retail facility" means retail facility as defined in KRS 363.900;

(13) "Sale" or "sell" means any transfer, gift, sale, barter, offer for sale, or advertisement for sale in any manner or by any means, including any transfer of motor fuel from any person or company to itself or an affiliate at another level of distribution, but does not include product exchanges at the wholesale level of distribution;

(14) "Supplier" means a wholesaler or person that supplies motor fuel to any retail facility;

(15) "Terminal facility" means a facility used for the purpose of storing, handling, or transferring motor fuel, but does not include bulk storage facilities owned or operated by a wholesaler;

(16) "UST system" means the tanks, piping, and pumps associated with the sale of motor fuel at retail facilities; and

(17) "Wholesaler" means a person, other than a refiner or dealer, who purchases motor fuel at a terminal facility and supplies motor fuel to retail facilities.

SECTION 2. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for a refiner or nonrefiner who is engaged in commerce in the Commonwealth to sell any grade and quality of motor fuel at retail below refiner or nonrefiner cost where the effect is to injure competition.

(2) It shall be unlawful for a refiner who is engaged in commerce in the Commonwealth to sell any grade and quality of motor fuel at a retail facility at a price that is below the price charged by the refiner to a wholesaler or dealer under written contract for the like grade and quality of motor fuel, to the extent that the wholesaler or dealer resells the motor fuel in the relevant geographic market where the refiner's retail price is in effect, where the effect is to injure competition.

(3) It shall be unlawful for a refiner or nonrefiner engaged in commerce in the Commonwealth to sell for resale any grade and quality of motor fuel at a price lower than the price at which the seller contemporaneously sells motor fuel of like grade and quality to another person on the same level of distribution within the same relevant geographic market as the purchaser, where the effect is to injure competition.

(4) It shall be unlawful for a refiner or nonrefiner engaged in commerce in the Commonwealth to knowingly receive for resale any grade and quality of motor fuel at a price lower than the price at which the seller from which the motor fuel is purchased or received contemporaneously sells motor fuel of like grade and quality to another person on the same level of distribution and within the same relevant geographic market as the purchaser, where the effect is to injure competition.

(5) It shall be unlawful for a refiner engaged in commerce in the Commonwealth to offer or give any rebate, subsidy, or concession on the sale of motor fuel, either directly or indirectly, when the refiner does not provide the same rebate, subsidy, or concession on proportionately equal terms to all persons purchasing for resale in the relevant geographic market, where the effect is to injure competition. If a wholesaler receives a rebate, rent subsidy, or concession, the wholesaler shall offer the rebate, rent subsidy, concession, or the equivalent of the rebate, rent subsidy, or concession to any retail outlet supplied by the wholesaler on proportionately equal terms. A rebate, subsidy, or concession provided in a good faith effort to meet a competitor's price is not a violation of Sections 1 to 7 of this Act, if the refiner provides the same rebate, subsidy, or concession to all similarly situated persons buying the motor fuel in the relevant geographic market on proportionally equal terms.

SECTION 3. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 1 to 7 of this Act shall not apply to:

(a) A refiner's or nonrefiner's sale of motor fuel below refiner or nonrefiner cost made in good faith to meet an equally low price of a competitor selling motor fuel in the same relevant geographic market of like grade and quality, even if the competitor's price is a violation of Sections 1 to 7 of this Act;

(b) The sale of motor fuel by any refiner or nonrefiner below refiner or nonrefiner cost for a bona fide clearance sale for the purpose of discontinuing trade in the motor fuel or for the purpose of liquidating a business;

(c) The sale of a refiner's motor fuel by a fiduciary or other officer under the order or discretion of any court;

(d) An isolated, inadvertent incident involving activity prohibited under Section 2 of this Act;

(e) Sales made during a grand opening to introduce a new or remodeled business, if the grand opening does not exceed three (3) days and is held within sixty (60) days from the date the new or remodeled business begins operations; and

(f) Sales of motor fuel of like grade and quality at different prices to persons at the same level of distribution if the difference in price is due to a difference in the cost of sale or delivery resulting from differing methods or quantities in which the grade and quality of motor fuel is sold or delivered.

(2) Any contract, express or implied, made by any person in violation of Sections 1 to 7 of this Act, shall be illegal and void and recovery shall not be permitted.

SECTION 4. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) A person who knowingly violates the provisions of Sections 1 to 7 of this Act shall be assessed a fine not to exceed ten thousand dollars ($10,000) per day during which the violation occurs.

(2) The Attorney General may investigate all claims arising under Sections 1 to 7 of this Act. During the investigatory phase, the Attorney General may issue subpoenas to assist in the fact-finding process. Upon completion of the investigatory phase, the Attorney General may elect to sue for recovery of fines if the Attorney General has a good faith belief that an infraction has occurred.

(3) Damages in any action by the Attorney General shall be limited to the amount of the fine assessed during the violation period. The sum assessed and recovered shall be distributed to the Kentucky Revenue Cabinet.

SECTION 5. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) A person injured as a result of an activity or practice that violates Sections 1 to 7 of this Act may bring a civil action for appropriate relief, including an action for a declaratory judgment, injunctive relief, and actual damages.

(2) Actual damages found to have resulted from violations of Sections 1 to 7 of this Act shall be tripled by the court. The court shall award a reasonable attorney's fee to the prevailing plaintiff and may award a reasonable attorney's fee to the prevailing defendant.

SECTION 6. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Any action brought by the Attorney General's Office or by a competitor for violations of Sections 1 to 7 of this Act shall be brought within two (2) years after the alleged violation occurred or should reasonably have been discovered.

SECTION 7. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

This Act may be cited as the Kentucky Fair Competition Act of 2002.

The Committee Substitute to **HB 435** is as follows:

HB 435, AN ACT relating to fair competition in the marketing of motor fuel.

WHEREAS, the General Assembly finds that the marketing of motor fuel in the Commonwealth affects the public interest; and

WHEREAS, the General Assembly finds that independent and small dealers and distributors of motor fuel are vital to a healthy, competitive marketplace and that certain marketing practices are contrary to the public interest because they impair a fair, competitive environment and tend to create and foster monopolies; and

WHEREAS, the General Assembly finds that independent and small dealers and distributors of motor fuel have made significant investments in property, equipment and environmental controls for the purpose of making motor fuel available to all areas of the Commonwealth; and

WHEREAS, the General Assembly finds that independent and small dealers and distributors cannot survive in a market environment that allows certain pricing schemes at the wholesale or retail level; and

WHEREAS, the General Assembly finds that subsidized pricing of motor fuel is inherently unfair, reduces competition, and ultimately tends to increase the price of motor fuel while decreasing the accessibility and availability of motor fuel in some areas; and

WHEREAS, the General Assembly finds that unfair competition that injures a single competitor results in injury to the entire market, thus creating an environment that injures and is contrary to the public interest; and

WHEREAS, the General Assembly declares it is the legislature's intent to encourage fair and honest competition, and to safeguard the public against the creation of monopolies or other unfair methods of competition, involving the sale of motor fuel in both the wholesale and retail trades within the Commonwealth; and

WHEREAS, the General Assembly declares that it is an unfair trade practice to advertise, offer for sale, or sell motor fuel below cost or at a cost lower than that charged other persons on the same marketing level; and

WHEREAS, the General Assembly declares it to be the policy of the Commonwealth to promote the general welfare through the prohibition of unfair trade practices;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Special Subcommittee on Energy shall study the feasibility of legislation to prohibit the practice of selling motor fuel below cost where the effect is to injure competition.

Section 2. The subcommittee shall report its findings and recommendations for legislative action to the Legislative Research Commission on or before December 1, 2002.

Section 3. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

HB 556, AN ACT providing for the establishment and management of a state park.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly recognizes that certain areas of the Commonwealth possess outstanding and unique scenic, recreational, geological, biological, historical, archaeological and other scientific, aesthetic, and cultural values. Therefore, it is hereby declared that in order to afford the citizens of the Commonwealth an opportunity to enjoy these natural areas, to attract out-of-state visitors, to ensure the well-being of our tourism industry, to preserve for future generations the beauty of certain areas untrammeled by man, to provide for the ever-increasing outdoor recreation needs of an expanding population, and to promote the preservation of, public access to, travel within, and enjoyment and appreciation of the outdoor areas and historic resources of the Commonwealth, there is hereby established a certain defined area in the southeastern part of the Commonwealth for ultimate designation as the Pine Mountain Trail State Park, with land in the defined area owned or leased by the Commonwealth or on which the Commonwealth has obtained an easement comprising the initial state park.

(2) It is the intent of Sections 1 to 11 of this Act to assure preservation of the scenic, ecological, and other values within the boundaries of the trail and to provide proper management of the recreational, wildlife, water and other resources within those boundaries. It is further the intent of Sections 1 to 11 of this Act to impose reasonable policies governing the use of private and public land within the authorized boundaries of the trail for the general welfare of the people of the Commonwealth and, where necessary, to enable the Commonwealth or any of its agencies to acquire fee title or lesser interests in land within the boundaries of the trail, in order to maintain the public trust in this unique area.

(3) The General Assembly recognizes the valuable contributions that volunteers and private, nonprofit groups have made to the development and maintenance of trails throughout the Commonwealth. In recognition of these contributions, it is further the purpose of Sections 1 to 11 of this Act to encourage and assist volunteer citizen and nonprofit group involvement in the planning, development, maintenance, and management, where appropriate, of the trail.

SECTION 2. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 11 of this Act, unless the context otherwise requires;

(1) "Trail" means the Pine Mountain Trail State Park, as established in Section 1 of this Act.

(2) "Secretary" means the Secretary of the Tourism Development Cabinet of the Commonwealth of Kentucky.

(3) "Person" means an individual, trust, firm, joint stock company, corporation including a government corporation, partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body.

SECTION 3. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby designated a linear state park known as the Pine Mountain Trail State Park, a trail of approximately one hundred twenty (120) miles in length, located exclusively within the boundaries of Kentucky beginning along the border of Kentucky and Virginia at or near Breaks Interstate Park, and extending generally south-southwest along the crest of Pine Mountain to the vicinity of Pine Mountain State Resort Park and continuing south to the Cumberland Gap National Park or the vicinity thereof. Insofar as practicable, the boundaries of the trail shall extend five hundred (500) feet outward from the crest of Pine Mountain down the northwest face, and five hundred (500) feet outward from the crest of Pine Mountain down the southeast face. The route of the trail from Pine Mountain State Resort Park to

Cumberland Gap National Park shall also be, to the extent feasible, a one thousand (1000) foot wide corridor, and shall be located as determined by the department. The trail shall be depicted on the "Pine Mountain Trail Map," which shall be on file and available for public inspection in the office of the commissioner of the department. The trail map shall delineate those portions of the trail that are owned or leased by the Commonwealth or on which the Commonwealth has obtained an easement and shall be updated periodically solely for the purpose of reflecting additions to those specific areas.

(2) The department may designate connecting or side trails which shall provide additional points of public access to the trail or access to points of interest, and which shall be of the same scenic nature as the trail.

(3) Because of its extended length, the department may supplement the trail by support facilities located on certain designated parts of the trail. These support facilities may include, as the department deems necessary and feasible, primitive shelters, fireplaces, safe water supplies, and other related public use facilities that shall meet department standards. No open wood fires shall be permitted on the trail except in areas with support facilities specifically designated for that purpose.

(4) The trail shall be a state scenic trail, so chosen because of its location and in order to provide maximum potential for the appreciation of natural areas and the conservation and enjoyment of the significant scenic, historic, natural, ecological, geological, and cultural qualities of the area through which the trail passes. It shall be limited exclusively to foot use, except that other nonmotorized uses may be permitted on segments where deemed appropriate by the department.

(5) The department shall, no later than December 31, 2002, determine the boundaries of the trail, to the extent funds are available for that purpose. The boundaries shall be established in a manner that protects the trail's scenic value.

SECTION 4. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) The power of eminent domain may be exercised to acquire land within the boundaries of the trail and for any designated side trails.

(2) Within the boundaries of the trail, the department may acquire, on behalf of the Commonwealth, fee title or lesser interests in land. Acquisition of land may be by gift, by purchase with donated funds, by funds appropriated by the General Assembly, by the use of proceeds from the sale of bonds, by exchange, by assumption of property tax payments, or by other authorized means. Notwithstanding the provisions in KRS 350.085(3), in acquiring any interests the department is authorized to wave the three hundred (300) feet restriction contained in KRS 350.085(3).

SECTION 5. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) Within the boundaries of the trail, the natural vegetation shall be kept undisturbed except for any clearing required for construction of the trail, occasional vistas, or trail-use facilities described in Sections 1 to 11 of this Act. Development and management of each segment of the trail shall be designed to harmonize with and complement any established multiple-use plans for that specific area in order to ensure continual maximum benefits from the land.

(2) Hunting of wild game shall be permitted only on or along areas as identified and permitted in administrative regulations as promulgated by the Department of Fish and Wildlife Resources after consultation with the Department of Parks.

(3) The use of motorized vehicles by the general public within the boundaries of the trail shall be prohibited, and nothing in Sections 1 to 11 of this Act shall be construed as authorizing the use of motorized vehicles in this area, except upon public roadways within the boundaries of the trail.

(4) The department may promulgate administrative regulations authorizing the use of motorized vehicles when these vehicles are required to meet emergencies where life or health is at risk, or to enable adjacent landowners to have access to their lands or mineral rights, where no reasonable alternative methods of access exist or could be constructed.

(5) Except as expressly authorized in Sections 1 to 11 of this Act or in the administrative regulations promulgated by the department, or as may be allowed under a change of use permit issued by the department, permissible land uses within the boundaries of that portion of the trail on Pine Mountain shall be as set forth in this section. Uses that lawfully existed upon the effective date of Sections 1 to 11 of this Act may continue. New or additional uses shall be in compliance with the administrative regulations to be promulgated by the department, shall be compatible with the policy and purposes of Sections 1 to 11 of this Act, and shall minimize disturbance to the trail. Select cutting of timber or other resource removal may be allowed pursuant to administrative regulations promulgated by the department upon the issuance of a change of use permit. Means of ingress and egress, utility facilities and pipelines may be constructed as approved by the commissioner in writing and under provision that the affected land be restored as nearly as possible to its former state.

(6) Any person owning an interest in land within the boundaries of the trail may apply to the department for a change of use permit. The secretary or the secretary's designee shall hold a public hearing after public notice on the application within sixty (60) days. Any person shall be allowed to present evidence as to whether the use proposed by the applicant is in accordance with the management plan developed pursuant to the provisions of Sections 1 to 11 of this Act, the administrative regulations promulgated pursuant to Sections 1 to 11 of this Act, and other applicable law.

(7) The secretary shall, within sixty (60) days after a hearing, issue an order and accompanying opinion granting the

permit, denying the permit, or recommending an alternative use to which the land may be put that is more consistent with the provisions of Sections 1 to 11 of this Act than the use for which the application was made. Any aggrieved party to the hearing shall have the right to petition the Franklin Circuit Court within thirty (30) days after issuance of the secretary's order.

SECTION 6. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

A fund for the purpose of carrying out the provisions of Sections 1 to 11 of this Act is hereby created, to be designated as the Pine Mountain Trail fund, and shall consist of all revenues derived from privileges, concessions, contracts, or otherwise, all moneys received by gifts, contributions, donations, and grants from public or private sources. This shall be a trust and agency fund account maintained and disbursed by the Tourism Development Cabinet to carry out the purposes of Sections 1 to 11 of this Act, after appropriations are made for administration and other expenses and purposes provided in Sections 1 to 11 of this Act. It shall not lapse, and interest earnings shall accrue to the fund.

SECTION 7. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) The trail shall be administered by the department according to the policies and criteria set forth in Sections 1 to 11 of this Act. The department may promulgate administrative regulations that are necessary for the preservation and enhancement of the trail and to carry out the purposes of Sections 1 to 11 of this Act, and for control of recreational, educational, scientific and other uses of these areas in a manner that shall not impair them. Primary emphasis shall be given to protecting aesthetic, scenic, historic, archaeological, biological, geological, and scientific features of the trail. The department shall develop a management plan for the trail and shall publicize and hold public hearings and record the views expressed on the management plan.

(2) The department shall be responsible for maintaining the trail, building bridges, campsites, shelters, and related public-use facilities where required, to the extent funds are available therefor. The department may enter into written agreements to delegate any of these functions to one or more nonprofit entities or other persons.

SECTION 8. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

Nothing in Sections 1 to 11 of this Act shall be construed to confer upon any member of the public the right to use or enter upon private lands adjacent to the boundaries of the trail, or to confer on any member of the public the right to use any private lands designated as part of the trail until such time as the department has delineated that area as being subject to an easement or lease by the Commonwealth under subsection (1) of Section 3 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

It shall be the duty of the department or, upon the secretary's request, the duty of the Attorney General to bring an action for the recovery of the penalties provided for in Section 10 of this Act, or to bring an action for a restraining order or temporary or permanent injunction to prevent or correct a condition that constitutes or threatens to constitute a violation of any of the provisions of Sections 1 to 11 of this Act. All actions for injunctive relief shall be brought in the name of the Commonwealth of Kentucky and shall be filed in the Franklin Circuit Court.

SECTION 10. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) Any person, corporation, city, county or other governmental subdivision who violates any of the provisions of Sections 1 to 11 of this Act shall be liable for a civil penalty not to exceed one thousand dollars ($1,000) per day for any violation, and in addition may be enjoined from continuing the violation. Each day upon which any violation occurs or continues shall constitute a separate offense.

(2) Any person who trespasses on private land within or adjacent to the boundaries of the trail shall be guilty of a Class B misdemeanor.

SECTION 11. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

Section 1 to 11 of this Act may be cited as the Pine Mountain Trail Act.

The Committee Substitute to **HB 556** is as follows:

HB 556, AN ACT providing for the establishment and management of a state park.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly recognizes that the ridge top of Pine Mountain is a unique area desirable for the creation of a trail. Therefore, it is hereby declared that in order to afford the citizens of the Commonwealth an opportunity to enjoy this natural area, to attract out-of-state visitors, to ensure the well-being of our tourism industry, to preserve for future generations the beauty of certain areas untrammeled by man, to provide for the ever-increasing outdoor recreation needs of an expanding population, and to promote the preservation of, public access to, travel within, and enjoyment and appreciation of the outdoor areas and historic resources of the Commonwealth, there is hereby established a certain defined area in the southeastern part of the Commonwealth for ultimate designation as the Pine Mountain Trail State Park, with land in the defined area owned or leased by the Commonwealth or on which the Commonwealth has obtained an easement comprising the initial state park.

(2) It is the intent of Sections 1 to 12 of this Act to assure preservation of the scenic, ecological, and other values within the boundaries of the trail and to provide proper management of the recreational, wildlife, water, and other resources within those boundaries. It is further the intent of Sections 1 to 12 of this Act to impose reasonable policies governing the use of land within the authorized boundaries of the trail, except for the restrictions set forth in Sections 1 to 12 of this Act, for the general welfare of the people of the Commonwealth and, where necessary, to enable the Commonwealth or any of its agencies to acquire fee title or lesser interests in land within the boundaries of the trail, in order to maintain the public trust in this unique area.

(3) The General Assembly recognizes the valuable contributions that volunteers and private, nonprofit groups have made to the development and maintenance of trails throughout the Commonwealth. In recognition of these contributions, it is further the purpose of Sections 1 to 12 of this Act to encourage and assist volunteer citizen and nonprofit group involvement in the planning, development, maintenance, and management, where appropriate, of the trail.

(4) The General Assembly recognizes that the establishment of Pine Mountain Trail State Park is not intended to create a one hundred twenty (120) mile linear barrier around southeastern Kentucky. The General Assembly further recognizes that to ensure the continued economic development of the area, provisions shall be made for means of ingress and egress for owners of property and those with property rights affected by the creation of the trail, and for new road construction, utility facilities, and pipelines that may cross the trail.

SECTION 2. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 12 of this Act, unless the context otherwise requires:

(1) "Department" means the Kentucky Department of Parks within the Tourism Development Cabinet;

(2) "Person" means an individual, trust, firm, estate, joint stock company, corporation, nonprofit corporation, government corporation, limited liability company, partnership, association, organization, government unit or agency whether federal, state, city, commission, or other political subdivision of the Commonwealth, any interstate body, group of persons acting in concert, or other legal entity;

(3) "Secretary" means the secretary of the Tourism Development Cabinet of the Commonwealth of Kentucky; and

(4) "Trail" means the Pine Mountain Trail State Park, as established in Section 1 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby designated a linear state park, the boundaries of which shall be determined by the department in accordance with this section known as the Pine Mountain Trail State Park, a trail of approximately one hundred twenty (120) miles in length, located exclusively within the boundaries of Kentucky beginning along the border of Kentucky and Virginia at or near Breaks Interstate Park, and extending generally south-southwest along the crest of Pine Mountain to the vicinity of Pine Mountain State Resort Park and continuing south to the Cumberland Gap National Park on the vicinity thereof. Insofar as practicable, the boundaries of the trail from the Breaks Interstate Park to Bad Branch State Nature Preserve shall be a one thousand (1,000) foot corridor, the center of which shall be the crest of Pine Mountain, to the extent that the corridor does not encroach upon the territory of the Commonwealth of Virginia. Insofar as practicable, the boundaries of the trail from the Bad Branch State Nature Preserve to the Pine Mountain State Resort Park shall be a corridor two hundred fifty (250) feet along the level top of Pine Mountain. The route of the trail from Pine Mountain State Resort Park to Cumberland Gap National Park shall be a corridor no wider than two hundred fifty (250) feet to be determined by the department. Notwithstanding these boundary limitations, the department may through negotiations with the land owner acquire additional land outside the boundary limitations. The trail shall be depicted on the "Pine Mountain Trail Map," which shall be on file and available for public inspection in the office of the commissioner of the department. The trail map shall delineate those portions of the trail that are owned or leased by the Commonwealth or on which the Commonwealth has obtained an easement and shall be updated periodically solely for the purpose of reflecting additions to those specific areas.

(2) The department may designate connecting or side paths which shall provide additional points of public access to the trail or access to points of interest, and which shall be of the same scenic nature as the trail, except that connecting or side paths shall not be acquired through eminent domain.

(3) Because of its extended length, the department may supplement the trail by support facilities located on certain designated parts of the trail or outside the trail. These support facilities may include, as the department deems necessary and feasible, primitive shelters, fireplaces, safe water supplies, and other related public-use facilities that shall meet department standards. No open wood fires shall be permitted on the trail except in areas with support facilities specifically designated for that purpose.

(4) The trail shall be a state scenic trail, so chosen because of its unique location. It shall be limited to foot use and other nonmotorized uses as permitted on segments where deemed appropriate by the department, and as set forth in Section 5 of this Act.

(5) The department shall, no later than June 30, 2003, determine the boundaries of the trail. In determining the boundaries of the trail the department shall not encroach upon any privately owned dwelling, or areas designated for residential structures and their surrounding properties, but shall route the trail around a privately owned dwelling or areas designated for a residential structure.

(6) The department shall not acquire through eminent domain any cemetery or its surrounding property which is designated as a cemetery or burial ground on the effective date of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) The power of eminent domain may only be exercised to acquire land in fee within the boundaries of the trail, except that the power of eminent domain shall not be exercised to acquire any privately owned dwelling, areas designated for residential structures and their surrounding properties, or property owned or leased, including adjacent or contiguous tracts of land leased or owned or which may be acquired, for the purposes of operating an oil or gas well, surface or underground coal mine operation, or surface or underground mineral quarrying operation, if the person holds a state permit or license issued by the Department of Surface Mining Reclamation and Enforcement or the Department of Mines and Minerals.

(2) Within the boundaries of the trail, the department may acquire, on behalf of the Commonwealth, fee title or lesser interests in land. Acquisition of land may be by gift, by purchase with donated funds, by funds appropriated by the General Assembly, by the use of proceeds from the sale of bonds, by exchange, by assumption of property tax payments, or by other authorized means. Notwithstanding the provisions in KRS 350.085(3) and 353.610, in acquiring any interests the Commonwealth or its agencies shall waive the three hundred (300) foot restriction contained in KRS 350.085(3) and boundary restrictions for a well set forth in KRS 353.610.

SECTION 5. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) Within the boundaries of the trail, as designated by the department and once acquired:

(a) The natural vegetation shall be kept undisturbed except for any clearing required for construction of the trail, occasional vistas, or trail-use facilities described in Sections 1 to 12 of this Act, except as provided under paragraph (c) of subsection (3) of this section. Development and management of each segment of the trail shall be designed to harmonize with and complement any established multiple-use plans for that specific area in order to ensure continual maximum benefits from the land;

(b) Hunting of wild game shall be permitted only on or along areas as identified and permitted in administrative regulations as promulgated by the Department of Fish and Wildlife Resources after consultation with the Department of Parks, and as permitted under paragraph (c) of subsection (3) of this section; and

(c) The use of motorized vehicles by the general public within the boundaries of the trail shall be limited, and nothing in Sections 1 to 12 of this Act shall be construed as authorizing the use of motorized vehicles in this area, except upon existing or newly constructed public roadways within the boundaries of the trail and as provided under paragraph (c) of subsection (3) of this section.

(2) The department may promulgate administrative regulations authorizing the use of motorized vehicles on areas other than public roadways, when these vehicles are required to meet emergencies where life or health is at risk, or to enable adjacent landowners to have access to their lands or mineral rights, as provided under paragraphs (a) and (c) of subsection (3) of this section.

(3) (a) Except as expressly authorized in Sections 1 to 12 of this Act or in the administrative regulations promulgated by the department, or as may be allowed under a change of use permit issued by the department, permissible land uses within the boundaries of the trail as designated by the department shall be as set forth in this section. Uses that lawfully existed upon the effective date of this Act may continue. After the trail boundaries are designated, new or additional uses shall be in compliance with the policy and purposes of Sections 1 to 12 of this Act and shall minimize disturbance to the trail. Above-ground blasting operations authorized under the provisions of KRS 351.315 to 351.375, except those operations conducted on sites utilizing no more than a total of ten thousand (10,000) pounds of explosives or the equivalent on the site, shall be prohibited for new or additional uses within an area of one thousand two hundred fifty (1,250) feet outward from the crest of Pine Mountain on the portion of the trail from Breaks Interstate Park to Bad Branch State Nature Preserve and within an area of five hundred (500) feet outward from the boundary of the trail on the portion of the trail from Bad Branch State Nature Preserve to Pine Mountain State Resort Park. Select cutting of timber or other resources removal may be allowed pursuant to Sections 1 to 12 of this Act and administrative regulations promulgated by the department upon the issuance of a change of use permit. Unless the property is purchased by the department, any net revenue from the cutting of timber or other resources removal shall inure to the benefit of the owner of the property or property rights from which the Commonwealth acquired the property. In promulgating administrative regulations related to Sections 1 to 12 of this Act and in developing the management plan as set forth in Section 7 of this Act, the department shall schedule public hearings in the county in which the trail lies that is affected by the administrative regulation and management plan.

(b) In the development of management plans as set forth in Section 7 of this Act, the department shall include provisions to allow for means of ingress and egress as provided in paragraph (c) of this subsection by owners of property rights affected by the creation of the trail, and for the construction of new roads, utility facilities, and pipelines that would encroach upon the trail. The department shall promulgate administrative regulations setting forth the procedures required to establish means of ingress and egress relating to obtaining rights-of-way, easements, and permits necessary for the construction of new roads, utility facilities, and pipelines that encroach upon the trail.

(c) When the Commonwealth acquires land for the trail authorized by Section 1 of this Act, regardless of whether the trail property is acquired by purchase, eminent domain, donation, or otherwise restricted, the person from whom the property is acquired or restricted or their successor in title shall have the following rights with regard to the property which has been acquired or restricted by the Commonwealth:

1. Ingress, egress, and access to trail property for purposes specified in this section or any other provision of law;

2. An easement to use trail property for the purpose of access to adjacent land of the same property owner or their successor, including but not limited to motorized travel;

3. To hunt, fish, or trap on that portion of trail property formerly owned, in accordance with applicable law and administrative regulations;

4. To gather and remove edible, medicinal, or ornamental plants and herbs from that portion of the trail property formerly owned, in accordance with applicable law and administrative regulations; and

5. To access and maintain a cemetery and burial grounds on that portion of trail property formerly owned.

(d) The rights specified in this section or other provisions of law or administrative regulation shall be included in any judgment when property or an interest therein is taken or restricted by eminent domain and shall be included in any contract for purchase, donation, or other acquisition of the property or an interest therein unless voluntarily waived in that document.

(6) Any person owning property or property rights within the boundaries of the trail may apply to the department for a change of use permit. The secretary or the secretary's designee shall hold a public hearing after public notice on the application within sixty (60) days. Any person shall be allowed to present evidence as to whether the use proposed by the applicant is in accordance with the management plan developed pursuant to the provisions of Sections 1 to 12 of this Act, the administrative regulations promulgated pursuant to Sections 1 to 12 of this Act, and other applicable law.

(7) The secretary shall, within sixty (60) days after a hearing, issue an order and accompanying opinion granting the permit, denying the permit, or recommending an alternative use to which the land may be put that is more consistent with the provisions of Sections 1 to 12 of this Act than the use for which the application was made. Any aggrieved party to the hearing shall have the right to petition the local circuit court in which the property lies within thirty (30) days after issuance of the secretary's order.

SECTION 6. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

A fund for the purpose of carrying out the provisions of Sections 1 to 12 of this Act is hereby created, to be designated as the Pine Mountain Trail fund, and shall consist of all revenues derived from privileges, concessions, contracts, or otherwise, and all moneys received by gifts, contributions, donations, and grants from public or private sources. This shall be a trust and agency fund account maintained and disbursed by the Tourism Development Cabinet to carry out the purposes of Sections 1 to 12 of this Act, after appropriations are made for administration and other expenses and purposes provided in Sections 1 to 12 of this Act. It shall not lapse, and interest earnings shall accrue to the fund.

SECTION 7. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) The trail shall be administered by the department according to the policies and criteria set forth in Sections 1 to 12 of this Act. Within six (6) months of the designation of the trail boundary, the department shall consider the needs of local area citizens and develop a management plan for the trail and shall publicize and hold public hearings and record the views expressed on the management plan in the county in which the trail lies that is affected by the management plan. Within twelve (12) months of development of the management plan, the department shall promulgate administrative regulations that are necessary for the preservation and enhancement of the trail and to carry out the purposes of Section 1 to 12 of this Act, and for control of recreational, educational, scientific, and other uses of these areas in a manner that shall not impair them.

(2) The department shall be responsible for maintaining the trail, building bridges, campsites, shelters, and related public-use facilities where required, to the extent funds are available therefor. The department may enter into written agreements as it relates to any of these functions to one (1) or more nonprofit entities or other persons.

SECTION 8. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

Nothing in Sections 1 to 12 of this Act shall be construed to confer upon any member of the public the right to use or enter upon private lands adjacent to the boundaries of the trail, or to confer on any member of the public the right to enter upon or use any private lands designated as part of the trail until such time as the department has delineated that area as being subject to an easement, purchase, or lease by the Commonwealth under subsection (1) of Section 3 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

It shall be the duty of the department or, upon the secretary's request, the duty of the Attorney General to bring an action for the recovery of the penalties provided for in Section 10 of this Act, or to bring an action for a restraining order or temporary or permanent injunction to prevent or correct a condition that constitutes or threatens to constitute a violation of any of the provisions of Sections 1 to 12 of this Act. All actions for injunctive relief shall be brought in the name of the Commonwealth of Kentucky and shall be filed in the local Circuit Court in which the property lies.

SECTION 10. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) Any person, corporation, city, county, or other governmental subdivision who violates any of the provisions of Sections 1 to 12 of this Act shall be liable for a civil penalty not to exceed five hundred dollars ($500) per day for any violation, and in addition may be enjoined from continuing the violation. Each day upon which any violation occurs or continues shall constitute a separate offense.

(2) No person shall trespass on private land adjacent to or within the boundaries of the trail. Any person who:

- *(a) Unintentionally violates the provisions of this section shall be subject to a prepayable fine of one hundred dollars ($100);*
- *(b) Intentionally violates the provisions of this section shall be subject to a prepayable fine of two hundred dollars ($200); and*
- *(c) Continues to trespass or intentionally violates the provisions of this section and causes damage to the private property may be prosecuted under the provisions of KRS Chapter 512.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) Subject to the provisions of subsection (3)(a) of Section 5 of this Act, nothing in Sections 1 to 12 of this Act shall be construed or interpreted as affecting, in any way, the legitimate use of surface and subsurface property adjacent to or visible from the trail, whether such use was in effect upon the designation of the trail or not, including but not limited to timbering, oil and gas operations, mining, both by surface and underground mining means, or any other legitimate use of surface or mineral property adjacent to or within view of the trail.

(2) Use of the lands outside of the boundary of the trail shall not be limited or restricted because the lands may be viewed from the trail. The viewshed of the trail shall be limited to the trail boundary for any land use regulation of lands outside the boundary of the trail.

(3) The General Assembly finds that the boundaries for the trail prescribed in Sections 1 to 12 of this Act are adequate and sufficient to protect areas inside the trail that may contain fragile or historic lands; or which may have important historic, cultural, scientific, aesthetic values and natural systems; or that may be renewable resource lands which have importance in terms of long-range productivity of water supply, food, or fiber products; or which could be considered natural hazard lands, including lands subject to frequent flooding, areas of unstable geology, or areas in which the health, safety, or welfare of people, property, or the environment is threatened due to surface coal mining or similar activities conducted outside of the trail boundaries.

SECTION 12. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 12 of this Act may be cited as the Pine Mountain Trail Act.

The Committee on Banking and Insurance reported **SB 38, SB 41, SB 146, SB 152, SB 187,** and **SCR 34** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 38, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17-3163 is amended to read as follows:

(1) All insurers issuing individual health insurance policies in this Commonwealth providing coverage on an expense-incurred basis shall make available and offer to the purchaser coverage for:

- (a) *The following, if an insurer provides medical and surgical benefits with respect to mastectomy, in a manner determined in consultation with the attending physician and the covered person, and subject to annual deductibles and coinsurance provisions as may be deemed appropriate and as are consistent with those established for other benefits under the coverage:*
  - *1.* All stages of breast reconstruction surgery *of the breast on which a mastectomy has been performed*[~~following a mastectomy that resulted from breast cancer if the insurer also covers mastectomies~~];
  - *2. Surgery and reconstruction of the other breast to produce a symmetrical appearance; and*
  - *3. Prostheses and physical complications of all stages of mastectomy, including lymphedemas;*
- (b) Diagnosis and treatment of endometriosis and endometritis if the insurer also covers hysterectomies; and
- (c) Bone density testing for women age thirty-five (35) *years* and older, as indicated by the health-care provider, in accordance with standard medical practice, to obtain baseline data for the purpose of early detection of osteoporosis.

(2) No insurer under this section shall offer *medical and surgical benefits with respect to a mastectomy*[~~coverage for mastectomies~~] that requires the procedure to be performed on an outpatient basis.

(3) An insurer shall provide written notice to a covered person of the availability of medical and surgical benefits with respect to a mastectomy upon enrollment and annually thereafter.

(4) An insurer shall not:

(a) Deny eligibility, or continued eligibility, to an individual to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of 42 U.S.C. sec. 300gg-52; and

(b) Penalize or otherwise reduce or limit the reimbursement of an attending provider, or provide incentives to an attending provider, to induce the provider to provide care to an individual in a manner inconsistent with 42 U.S.C. sec. 300gg-52.

Section 2. KRS 304.17A-134 is amended to read as follows:

(1) A health benefit plan~~[issued or renewed on or after July 15, 1996,]~~ shall make available and offer to the purchaser coverage for:

(a) ***The following, if a health benefit plan provides medical and surgical benefits with respect to mastectomy, in a manner determined in consultation with the attending physician and the covered person, and subject to annual deductibles and coinsurance provisions as may be deemed appropriate and as are consistent with those established for other benefits under the coverage:***

1. All stages of breast reconstruction surgery ***of the breast on which the mastectomy has been performed***~~[following a mastectomy that resulted from breast cancer if the insurer also covers mastectomies]~~;

2. Surgery and reconstruction of the other breast to produce a symmetrical appearance; and

3. Prostheses and physical complications of all stages of mastectomy, including lymphedemas;

(b) Diagnosis and treatment of endometriosis and endometritis if the ***health benefit plan***~~[insurer]~~ also covers hysterectomies; and

(c) Bone density testing for women age thirty-five (35) ***years*** and older, as indicated by the health-care provider, in accordance with standard medical practice, to obtain baseline data for the purpose of early detection of osteoporosis.

(2) No health benefit plan under this section shall offer ***medical and surgical benefits with respect to a mastectomy***~~[coverage for mastectomies]~~ that requires the procedure be performed on an outpatient basis.

(3) A health benefit plan shall provide written notice to a covered person of the availability of medical and surgical benefits with respect to a mastectomy upon enrollment and annually thereafter.

(4) A health benefit plan shall not:

(a) Deny eligibility, or continued eligibility, to an individual to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of 42 U.S.C. sec. 300gg-52; and

(b) Penalize or otherwise reduce or limit the reimbursement of an attending provider, or provide incentives to an attending provider, to induce the provider to provide care to an individual in a manner inconsistent with 42 U.S.C. sec. 300gg-52.

Section 3. KRS 304.17A-527 is amended to read as follows:

(1) A managed care plan as defined in KRS 304.17A-500 shall file with the commissioner sample copies of any agreements it enters into with providers for the provision of health care services. The commissioner shall promulgate administrative regulations prescribing the manner and form of the filings required. The agreements ***and contracts entered into or renewed after the effective date of this Act*** shall include the following:

(a) A hold harmless clause that states that the provider may not, under any circumstance, including:

1. Nonpayment of moneys due the providers by the managed care plan,

2. Insolvency of the managed care plan, or

3. Breach of the agreement,

bill, charge, collect a deposit, seek compensation, remuneration, or reimbursement from, or have any recourse against the subscriber, dependent of subscriber, enrollee, or any persons acting on their behalf, for services provided in accordance with the provider agreement. This provision shall not prohibit collection of deductible amounts, copayment amounts, coinsurance amounts, and amounts for noncovered services;

(b) A continuity of care clause that states that if an agreement between the provider and the managed care plan is terminated for any reason, other than a quality of care issue or fraud, the provider shall continue to provide services and reimburse the provider in accordance with the agreement until the subscriber, dependent of the subscriber, or the enrollee is discharged from an inpatient facility, or the active course of treatment is completed, whichever time is greater, and in the case of a pregnant woman, services shall continue to be provided through the end of the post-partum period if the pregnant woman is in her fourth or later month of pregnancy;

(c) A survivorship clause that states the hold harmless clause and continuity of care clause shall survive the termination of the agreement between the provider and the managed care plan;~~[and]~~

(d) ***A clause stating that, upon request, the insurer shall provide the provider with specific fees for requested codes***

applicable to the compensation that the provider will receive under the contract with the insurer within thirty (30) days of the date of such request; and

(e) A clause requiring that if a provider enters into any subcontract agreement with another provider to provide ***their licensed*** health care services to the subscriber, dependent of the subscriber, or enrollee of a managed care plan ***where the subcontracted provider will bill the managed care plan or subscriber or enrollee directly for the subcontracted services,*** the subcontract agreement must meet all requirements of this subtitle and that all such subcontract agreements shall be filed with the commissioner in accordance with this subsection.

(2) An insurer that enters into any risk-sharing arrangement or subcontract agreement shall file a copy of the arrangement with the commissioner. The insurer shall also file the following information regarding the risk-sharing arrangement:

(a) The number of enrollees affected by the risk-sharing arrangement;

(b) The health care services to be provided to an enrollee under the risk-sharing arrangement;

(c) The nature of the financial risk to be shared between the insurer and entity or provider, including, but not limited to, the method of compensation;

(d) Any administrative functions delegated by the insurer to the entity or provider. The insurer shall describe a plan to ensure that the entity or provider will comply with KRS 304.17A-500 to 304.17A-590 in exercising any delegated administrative functions; and

(e) The insurer's oversight and compliance plan regarding the standards and method of review.

(3) Nothing in this section shall be construed as requiring an insurer to submit the actual financial information agreed to between the insurer and the entity or provider. The commissioner shall have access to a specific risk sharing arrangement with an entity or provider upon request to the insurer. Financial information obtained by the department shall be considered to be a trade secret and shall not be subject to KRS 61.872 to 61.884.

Section 4. KRS 304.17A-600 is amended to read as follows:

As used in KRS 304.17A-600 to 304.17A-633:

(1) (a) "Adverse determination" means a determination by an insurer or its designee that the health care services furnished or proposed to be furnished to a covered person are:

1. Not medically necessary, as determined by the insurer, or its designee or experimental or investigational, as determined by the insurer, or its designee; and

2. Benefit coverage is therefore denied, reduced, or terminated.

(b) "Adverse determination" does not mean a determination by an insurer or its designee that the health care services furnished or proposed to be furnished to a covered person are specifically limited or excluded in the covered person's health benefit plan;

(2) "Authorized person" means a parent, guardian, or other person authorized to act on behalf of a covered person with respect to health care decisions;

(3) "Concurrent review" means utilization review conducted during a covered person's course of treatment or hospital stay;

(4) "Covered person" means a person covered under a health benefit plan;

(5) "External review" means a review that is conducted by an independent review entity which meets specified criteria as established in KRS 304.17A-623, 304.17A-625, and 304.17A-627;

(6) "Health benefit plan" means the document evidencing and setting forth the terms and conditions of coverage of any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network policy or certificate; a self-insured policy or certificate or a policy or certificate provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; ***or limited health service benefit plans;*** and for purposes of KRS 304.17A-600 to 304.17A-633 includes short-term coverage policies***;***[~~.~~]

(7) "Independent review entity" means an individual or organization certified by the department to perform external reviews under KRS 304.17A-623, 304.17A-625, and 304.17A-627[~~. An independent review entity which is accredited by the National Commission on Quality Assurance, the American Accreditation Health Care Commission, or another nationally~~

~~recognized accreditation organization as identified by the department shall be deemed certified by the department]~~;

(8) "Insurer" means any of the following entities authorized to issue health benefit plans as defined in subsection (6) of this section: an insurance company, health maintenance ***organization***~~[origination]~~; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association; nonprofit hospital, medical-surgical, or health service corporation; or any other entity authorized to transact health insurance business in Kentucky;

(9) "Internal appeals process" means a formal process, as set forth in KRS 304.17A-617, established and maintained by the insurer, its designee, or agent whereby the covered person, an authorized person, or a provider may contest an adverse determination rendered by the insurer, its designee, or private review agent;

(10) ***"Nationally recognized accreditation organization" means a private nonprofit entity that sets national utilization review and internal appeal standards and conducts review of insurers, agents, or independent review entities for the purpose of accreditation or certification. Nationally recognized accreditation organizations shall include the National Committee for Quality Assurance (NCQA), the American Accreditation Health Care Commission (URAC), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or any other organization identified by the department;***

(11) "Private review agent" or "agent" means a person or entity performing utilization review that is either affiliated with, under contract with, or acting on behalf of any insurer or other person providing or administering health benefits to citizens of this Commonwealth. "Private review agent" or "agent" does not include an independent review entity which performs external review of adverse determinations;

(12)~~[(11)]~~ "Prospective review" means utilization review that is conducted prior to a hospital admission or a course of treatment;

(13)~~[(12)]~~ "Provider" shall have the same meaning as set forth in KRS 304.17A-005;

(14)~~[(13)]~~ "Qualified personnel" means licensed physician, registered nurse, licensed practical nurse, medical records technician, or other licensed medical personnel who through training and experience shall render consistent decisions based on the review criteria***;***~~[.]~~

(15)~~[(14)]~~ "Registration" means an authorization issued by the department to an insurer or a private review agent to conduct utilization review***;***~~[.]~~

(16)~~[(15)]~~ "Retrospective review" means utilization review that is conducted after health care services have been provided to a covered person. "Retrospective review" does not include the review of a claim that is limited to an evaluation of reimbursement levels, or adjudication of payment;

(17)~~[(16)]~~ "Utilization review" means a review of the medical necessity and appropriateness of hospital resources and medical services given or proposed to be given to a covered person for purposes of determining the availability of payment. Areas of review include concurrent, prospective, and retrospective review***; and***~~[.]~~

(18)~~[(17)]~~ "Utilization review plan" means a description of the procedures governing utilization review activities performed by an insurer or a private review agent.

Section 5. KRS 304.17A-607 is amended to read as follows:

(1) An insurer or private review agent shall not provide or perform utilization reviews without being registered with the department. A registered insurer or private review agent shall:

(a) Have available the services of sufficient numbers of registered nurses, medical records technicians, or similarly qualified persons supported by licensed physicians with access to consultation with other appropriate physicians to carry out its utilization review activities;

(b) Ensure that only licensed physicians shall:

1. Make a utilization review decision to deny, reduce, limit, or terminate a health care benefit or to deny, or reduce payment for a health care service because that service is not medically necessary, experimental, or investigational except in the case of a health care service rendered by a chiropractor or optometrist where the denial shall be made respectively by a chiropractor or optometrist duly licensed in Kentucky; and

2. Supervise qualified personnel conducting case reviews;

(c) Have available the services of sufficient numbers of practicing physicians in appropriate specialty areas to assure the adequate review of medical and surgical specialty and subspecialty cases;

(d) Not disclose or publish individual medical records or any other confidential medical information in the performance of utilization review activities except as provided in the Health Insurance Portability and Accountability Act, Subtitle F, secs. 261 to 264 and 45 C.F.R. secs. 160 to 164 and other applicable laws and administrative regulations;

(e) Provide a toll free telephone line for covered persons, authorized persons, and providers to contact the insurer or private review agent and be accessible to covered persons, authorized persons, and providers for forty (40) hours a week during normal business hours in this state;

(f) ***Where an insurer, its agent, or private review agent provides or performs utilization review,*** be available ***to conduct utilization review during normal business hours and extended hours in this state on Monday and Friday through 6:00 p.m., including federal holidays***[~~twenty-four (24) hours a day, seven (7) days a week to conduct:~~

~~1. Preadmission review of an emergency admission, if preauthorization is required for emergency admissions or use of an emergency room;~~

~~2. Preauthorization of weekend admissions to a hospital, or to review services delivered on the weekend or after normal business hours, if the covered person is subject to preauthorization on weekends or after normal business hours; and~~

~~3. Review of a patient's continued hospitalization, if a prior authorization will expire on a weekend~~];

(g) Provide decisions to covered persons, authorized persons, and all providers on appeals of adverse determinations and coverage denials of the insurer or private review agent, in accordance with this section and administrative regulations promulgated in accordance with KRS 304.17A-609;

(h) Provide a utilization review decision ***within the timeframes listed in this paragraph that will be followed by written notice of the decision within one (1) business day of the date the decision is rendered. A written notice in electronic format, including E-mail or facsimile, may suffice for this purpose where the covered person, authorized person, or provider has agreed in advance in writing to receive such notices electronically and shall include the required elements of subsection (j) of this section***:

1. Within twenty-four (24) hours of a request for:
   a. Preadmission review of a hospital admission, unless additional information is needed;
   b. Preauthorization of treatment when the covered person is already hospitalized; or
   c. Retrospective review of an emergency hospital admission;
2. Within two (2) business days of[~~ a~~] receipt of a request for preauthorization for a treatment, procedure, drug, or device***, unless there is a documented need for additional information***; ***and***
3.[~~ Within twenty four (24) hours of receipt of a request for review of a covered person's continued hospital stay and prior to the time when a previous authorization for hospital care will expire; and~~
~~4.~~] Within twenty (20) business days of the receipt of requested medical information when the insurer or private review agent has initiated a retrospective review;

(i) ***Provide a utilization review decision within twenty-four (24) hours of receipt of a request for review of a covered person's continued hospital stay and prior to the time when a previous authorization for hospital care will expire;***

(j) Provide written notice of review decisions to the covered person, authorized person, and providers. An insurer or agent that denies coverage or reduces payment for a treatment, procedure, drug, or device shall include in the written notice:

1. A statement of the specific medical and scientific reasons for denial or reduction of payment;
2. The[~~ name,~~] state of licensure, medical license number, and the title of the reviewer making the decision;
3. A description of alternative benefits, services, or supplies covered by the health benefit plan***, if any***; and
4. Instructions for initiating or complying with the insurer's internal appeal procedure, as set forth in KRS 304.17A-617, stating, at a minimum, whether the appeal shall be in writing, ***and any specific filing procedures, including any applicable*** time limitations, or schedules[~~ for filing appeals~~], and the ***position***[~~name~~] and phone number of a contact person who can provide additional information;

(k)[~~(j)~~] Afford participating physicians an opportunity to review and comment on all medical and surgical and emergency room protocols, respectively, of the insurer and afford other participating providers an opportunity to review and comment on all of the insurer's protocols that are within the provider's legally authorized scope of practice; and

(l)[~~(k)~~] Comply with its own policies and procedures on file with the department ***or, if accredited or certified by a nationally recognized accrediting entity, comply with the utilization review standards of that accrediting entity where they are comparable and do not conflict with state law***.

(2) The insurer's failure to make a determination and provide written notice within the time frames set forth in this section shall be deemed to be an adverse determination by the insurer for the purpose of initiating an internal appeal as set forth in KRS 304.17A-617. This provision shall not apply where the failure to make the determination or provide the notice results from circumstances which are documented to be beyond the insurer's control.

(3) An insurer or private review agent shall submit a copy of any changes to its utilization review policies or procedures to the department. No change to policies and procedures shall be effective ***or used*** until[~~ thirty (30) days~~] after it has been filed with and approved by the commissioner.

(4) A private review agent shall provide to the department the names of the entities for which the private review agent is

performing utilization review in this state. Notice shall be provided within thirty (30) days of any change.

Section 6. KRS 304.17A-609 is amended to read as follows:

The department shall promulgate emergency administrative regulations regarding utilization review and internal ***appeal***[~~review~~], including the specification of information required of insurers and private review agents which shall, at a minimum, include:

(1) A utilization review plan ***that contains all***[~~that includes~~] information utilized for conducting preadmission, admission, readmission review, preauthorization, continued stay authorization, and retrospective review ***and which***[~~that~~], for each type of review, includes:

  (a) Utilization review policies and procedures to evaluate proposed or delivered medical services;

  (b) Time frames for review;

  (c) A written summary describing the review process and required forms;

  (d) Documentation ***that actively practicing providers with appropriate qualifications are involved in the development or adoption*** of[~~ qualifications of personnel who developed the specific~~] utilization review ***criteria***[~~procedures~~] relating to specialty and subspecialty areas;

  (e) Descriptions and names of review criteria upon which utilization review decisions are based; and

  (f) Additional standards, if any, for the consideration of special circumstances.

(2) The type and qualifications of the personnel either employed or under contract to perform utilization review;

(3) Assurance that a toll-free line will be provided that covered persons, authorized persons, and providers may use to contact the insurer or private review agent;

(4) The policies and procedures to ensure that a representative of the insurer or private review agent shall be reasonably accessible to covered persons, authorized persons, and providers at least forty (40) hours per week during normal business hours;

(5) The policies and procedures to ensure that all applicable state and federal laws to protect the confidentiality of individual medical records are followed;

(6) A copy of the materials designed to inform covered persons, authorized persons, and providers of the toll-free number and the requirements of the utilization review plan;

(7) A list of the entities for which the private review agent is performing utilization review in this state; and

(8) Evidence of compliance or the ability to comply with the requirements and procedures established regarding utilization review and the administrative regulations promulgated thereunder.

(9) In lieu of disclosing information specified in subsection (1) of this section, an insurer or private review agent may submit to the department evidence of accreditation or certification, if any, with a nationally recognized accreditation organization that oversees the information described in subsections (1) to (8) of this section, provided that the department may still require the information in subsection (8) of this section or other information to demonstrate compliance with the requirements of this section and Sections 4, 5, 7, 8, 9, and 10 of this Act not covered by the standards of the nationally recognized accreditation organization, as well as basic information necessary for the department to contact the insurer or private review agent. Nothing in this subsection shall be construed to prohibit or in any way limit the department's authority to require the submission of information specified in subsections (1) to (8) of this section or any other information the department deems necessary for purposes of investigating a complaint that the insurer or private review agent is not in compliance with KRS 304.17A-600 to 304.17A-633.

Section 7. KRS 304.17A-613 is amended to read as follows:

(1) The department shall, through the promulgation of emergency administrative regulations, develop a process:

  (a) For the review of applications for registration of insurers or private review agents seeking to conduct utilization reviews;

  (b) For the review of applications for insurers or private review agents seeking registration renewal to continue as a utilization review entity;

  (c) Ensuring that no registration shall be approved unless the commissioner has documentation or findings that all applicants seeking registration or renewal to conduct utilization review are in compliance with the requirements and procedures established regarding utilization review, and as to renewals, have complied with KRS 304.17A-600 to 304.17A-633 and administrative regulations promulgated to enforce and to administer KRS 304.17A-600 to 304.17A-633; and

  (d) Establishing fees for applications and renewals in an amount sufficient to pay the administrative costs of the program and any other costs associated with carrying out the provisions of KRS 304.17A-600, 304.17A-603, 304.17A-605, 304.17A-607, 304.17A-609, 304.17A-611, 304.17A-613, and 304.17A-615.

(2) The registration issued in accordance with this section expires on the second anniversary of the effective date unless it is renewed.

(3) The registration issued under this section is not transferable.

(4) The commissioner may revoke or suspend the utilization review registration of any insurer or private review agent who does not comply with the requirements and procedures established regarding utilization review or any administrative regulations promulgated thereunder.

(5) The department shall establish reporting requirements to:

(a) Evaluate the effectiveness of insurers and private review agents; and

(b) Determine if the utilization review plans are in compliance with the requirements and procedures established regarding utilization review and applicable administrative regulations.

(6) Upon request of any provider, authorized person, or covered person whose care is subject to review, the department shall provide copies of policies or procedures of any insurer or private review agent that has been issued a registration by the department to conduct review in this state.

(7) Notwithstanding any provision to the contrary, an insurer or private review agent registered and in good standing under the provisions of KRS 211.461 to 211.466, prior to July 14, 2000, shall be deemed in compliance with requirements and procedures established in KRS 304.17A-600 to 304.17A-633 regarding utilization review and registered accordingly.

(8) Upon receipt of written complaints from covered persons, authorized persons, or providers stating that an insurer or a private review agent has failed to perform a review in accordance with the utilization review plan or the requirements and procedures established regarding utilization review, or administrative regulations promulgated thereunder, the commissioner shall:

(a) Send a copy of the complaint to the insurer or the private review agent within ten (10) days of receipt of the complaint, and require that any written reply be sent to the commissioner within ten (10) days; and

(b) Review the complaint and any written reply received from the insurer or private review agent within the time frames set forth in paragraph (a) of this subsection and make a recommendation to the insurer or private review agent and the covered person, authorized person, or provider.

(9) The commissioner shall consider complaints before issuing or renewing any registration or renewal of a registration to an insurer or a private review agent.

(10) Notwithstanding any provision in this section to the contrary, the department shall accept accreditation or certification by a nationally recognized accreditation organization as sufficient documentation or finding for purposes of subsections (1) and (5) of this section that the insurer or private review agent meets the application requirements for registration or renewal. Insurers or private review agents accredited or certified by a nationally recognized accreditation organization shall be deemed compliant with the utilization review and internal appeals requirements of this section and Sections 4, 5, 6, 8, 9, and 10 of this Act and administrative regulations to the extent the standards of such nationally recognized accreditation organization sufficiently meet these requirements. The department shall have a simplified process in administrative regulations for insurers and private review agents to register using accreditation or certification and shall limit any additional documentation only for demonstrating compliance with requirements in this section and Sections 4, 5, 6, 8, 9, and 10 of this Act not met by the standards of a nationally recognized accreditation organization.

Section 8. KRS 304.17A-617 is amended to read as follows:

(1) Every insurer shall have an internal appeal process to be utilized by the insurer or its designee, consistent with this section and KRS 304.17A-619 and which shall be disclosed to covered persons in accordance with KRS 304.17A-505(1)(g). An insurer shall disclose the availability of the internal~~[review]~~ process to the covered person in the insured's timely notice of an adverse determination or notice of a coverage denial which meets the requirements set forth in ***Section 5(1)(j) of this Act***~~[KRS 304.17A-607(1)(i)]~~. For purposes of this section "coverage denial" means an insurer's determination that a service, treatment, drug, or device is specifically limited or excluded under the covered person's health benefit plan. Where a coverage denial is involved, in addition to stating the reason for the coverage denial, the required notice shall contain instructions for filing a request for ***internal appeal***~~[review by the department]~~.

(2) The internal appeals process may be initiated by the covered person, an authorized person, or a provider acting on behalf of the covered person. The internal appeals process shall include adequate and reasonable procedures for review and resolution of appeals concerning adverse determinations made under utilization review and of coverage denials, including procedures for reviewing appeals from covered persons whose medical conditions require expedited review. At a minimum, these procedures shall include the following:

(a) Insurers or their designees shall provide decisions to covered persons, authorized persons, and providers on internal appeals of adverse determinations or coverage denials within thirty (30) days of receipt of the request for internal appeal;

(b) Insurers or their designees shall render a decision not later than three (3) business days after ***receipt of*** the request for an expedited appeal of either an adverse determination or a coverage denial. An expedited appeal is deemed necessary when a covered person is hospitalized or, in the opinion of the treating provider, review under a standard time frame could, in the absence of immediate medical attention, result in any of the following:

1. Placing the health of the covered person or, with respect to a pregnant woman, the health of the covered person or the unborn child in serious jeopardy;

2. Serious impairment to bodily functions; or

3. Serious dysfunction of a bodily organ or part;

(c) Internal appeal of an adverse determination shall only be conducted by a licensed physician who did not participate in the initial review and denial. However, in the case of a review involving a medical or surgical specialty or subspecialty, the insurer or agent shall, upon request by a covered person, authorized person, or provider, utilize a board eligible or certified physician in the appropriate specialty or subspecialty area to conduct the internal appeal;

(d) Those portions of the medical record that are relevant to the internal appeal, if authorized by the covered person and in accordance with state or federal law, shall be considered and providers given the opportunity to present additional information;

(e) ***In addition to any previous notice required under Section 5(1)(j) of this Act, and*** to facilitate expeditious handling of ***a request for external review***[~~an appeal~~] of an adverse determination or a coverage denial, an insurer or agent that denies, limits, reduces, or terminates coverage for a treatment, procedure, drug, or device for a covered person shall provide the ***covered*** person***, authorized person, or provider acting on behalf of the covered person***[~~undertaking an appeal~~] with ***an internal appeal determination***[~~a denial~~] letter that shall include:

1. A statement of the specific medical and scientific reasons for denying coverage or identifying that provision of the schedule of benefits or exclusions that demonstrates that coverage is not available;

2. The[~~ name,~~] state of licensure, medical license number, and the title of the person making the decision;

3. A description of alternative benefits, services, or supplies covered by the health benefit plan, if any; and

4. Instructions for initiating an ***external review of an***[~~internal appeal of the~~] adverse determination, or filing a request for review with the department ***if***[~~where~~] a coverage denial is upheld by the insurer on internal appeal.

(3) The department shall establish and maintain a system for receiving and reviewing requests for review of coverage denials from covered persons, authorized persons, and providers. For purposes of this subsection "coverage denials" shall not include an adverse determination as defined in KRS 304.17A-600 or subsequent denials arising from an adverse determination.

(a) On receipt of a written request for review of a coverage denial from a covered person, authorized person, or provider, the department shall notify the insurer which issued the denial of the request for review and shall call for the insurer to respond to the department regarding the request for review within five (5) days ***of*** receipt of notice to the insurer;

(b) Within five (5) days of receiving the notice of the request for review from the department, the insurer shall provide to the department the following information:

1. Confirmation as to whether the person who received or sought the health service for which coverage was denied was a covered person[~~ on the date of service~~] under a health benefit plan issued by the insurer ***on the date the service was sought or denied***;

2. Confirmation as to whether the covered person, authorized person, or provider has exhausted his or her rights under the insurer's appeal process under this section; and

3. The reason for the coverage denial, including the specific limitation or exclusion of the health benefit plan demonstrating that coverage is not available;

(c) In addition to the information described in paragraph (b) of this subsection, the insurer and the covered person, authorized person, or provider shall provide to the department any information requested by the department that is germane to its review;

(d) On the receipt of the information described in paragraphs (b) and (c) of this subsection, unless the department is not able to do so because making a determination requires resolution of a medical issue, it shall determine whether the service, treatment, drug, or device is specifically limited or excluded under the terms of the covered person's health benefit plan. If the department determines that the treatment, service, drug, or device is not specifically limited or excluded, it shall so notify the insurer, and the insurer shall either cover the service, or afford the covered person an opportunity for external review under KRS 304.17A-621, 304.17A-623, and 304.17A-625, where the conditions precedent to the review are present. If the department notifies the insurer that the treatment, service, drug, or device is specifically limited or excluded in the health benefit plan, the insurer is not required to cover the service or afford the covered person an external review.

(e) An insurer shall be required to cover the treatment, service, drug, or device that was denied or provide notification of the right to external review in accordance with paragraph (d) of this subsection whether the covered person has disenrolled or remains enrolled with the insurer.

(f) If the covered person has disenrolled with the insurer, the insurer shall only be required to provide the treatment, service, drug, or device that was denied for a period not to exceed thirty (30) days, or provide the covered person the opportunity for external review.

Section 9. KRS 304.17A-623 is amended to read as follows:

(1) Every insurer shall have an external review process to be utilized by the insurer or its designee, consistent with this section and which shall be disclosed to covered persons in accordance with KRS 304.17A-505(1)(g). An insurer, its designee, or agent shall disclose the availability of the external review process to the covered person in the insured's timely notice of an adverse determination or notice of a coverage denial as set forth in ***Section 5(1)(j) of this Act***~~[KRS 304.17A-607(1)(i)]~~ and ***in the denial letter required in KRS*** 304.17A-617(1) and (2)(e). For purposes of this section "coverage denial" means an insurer's determination that a service, treatment, drug, or device is specifically limited or excluded under the covered person's health benefit plan.

(2) A covered person, an authorized person, or a provider acting on behalf of and with the consent of the covered person, may request an external review of an adverse determination rendered by an insurer, its designee, or agent.

(3) The insurer shall provide for an external review of an adverse determination if the following criteria are met:

(a) The insurer, its designee, or agent has rendered an adverse determination;

(b) The covered person has completed the insurer's internal appeal process, or the insurer has failed to make a timely determination or notification as set forth in KRS 304.17A-619(2). The insurer and the covered person may however, jointly agree to waive the internal appeal requirement;

(c) The covered person was enrolled in the health benefit plan on the date of service or, if a prospective denial, the covered person was enrolled and eligible to receive covered benefits under the health benefit plan on the date the proposed service was requested; and

(d) The entire course of treatment or service will cost the covered person at least one hundred dollars ($100) if ***the***~~[not]~~ covered ***person had no insurance***~~[by the insurer]~~.

(4) The covered person, an authorized person, or a provider with consent of the covered person shall submit a request for external review to the insurer within sixty (60) days, except as set forth in KRS 304.17A-619(1), of receiving notice that an adverse determination has been timely rendered under the insurer's internal appeal process. As part of the request, the covered person shall provide to the insurer or its designee written consent authorizing the independent review entity to obtain all necessary medical records from both the insurer and any provider utilized for review purposes regarding the decision to deny, limit, reduce or terminate coverage.

(5) The covered person shall be assessed a one (1) time filing fee of twenty-five dollars ($25) to be paid to the independent review entity and which may be waived if the independent review entity determines that the fee creates a financial hardship on the covered person. The fee shall be refunded if the independent review entity finds in favor of the covered person.

(6) A covered person shall not be afforded an external review of an adverse determination if:

(a) The subject of the covered person's adverse determination has previously gone through the external review process and the independent review entity found in favor of the insurer; and

(b) No relevant new clinical information has been submitted to the insurer since the independent review entity found in favor of the insurer.

(7) The department shall establish a system for each insurer to be assigned an independent review entity for external reviews. The system established by the department shall be prospective and shall require insurers to utilize independent review entities on a rotating basis so that an insurer does not have the same independent review entity for two (2) consecutive external reviews. The department shall contract with no less than two (2) independent review entities.

(8) (a) If a dispute arises between an insurer and a covered person regarding the covered person's right to an external review, the covered person may file a complaint with the department. Within five (5) days of receipt of the complaint, the department shall render a decision and may direct the insurer to submit the dispute to an independent review entity for an external review if it finds:

1. The dispute involves denial of coverage based on medical necessity or the service being experimental or investigational; and

2. All of the requirements of subsection (3) of this section have been met.

(b) The complaint process established in this section shall be separate and distinct from, and shall in no way limit other grievance or complaint processes available to consumers under other provisions of the KRS or duly promulgated administrative regulations. This complaint process shall not limit, alter, or supplant the mechanisms for appealing coverage denials established in KRS 304.17A-617.

(9) The external review process shall be confidential and shall not be subject to KRS 61.805 to 61.850 and KRS 61.870 to 61.884.

(10) External reviews shall be conducted in an expedited manner by the independent review entity if the covered person is hospitalized, or if, in the opinion of the treating provider, review under the standard time frame could, in the absence of immediate medical attention, result in any of the following:

(a) Placing the health of the covered person or, with respect to a pregnant woman, the health of the covered person or her unborn child in serious jeopardy;

(b) Serious impairment to bodily functions; or

(c) Serious dysfunction of a bodily organ or part.

(11) Requests for expedited external review, shall be forwarded by the insurer to the independent review entity within twenty-four (24) hours of receipt by the insurer.

(12) For expedited external review, a determination shall be made by the independent review entity within twenty-four (24) hours from the[~~ date of its~~] receipt of ***all information required***[~~notice of the adverse determination~~] from the insurer. An extension of up to twenty-four (24) hours may be allowed if the covered person and the insurer or its designee agree. The insurer or its designee shall provide notice to the independent review entity and to the covered person, by same-day communication, that the adverse determination has been assigned to an independent review entity for expedited review.

(13) External reviews which are not expedited shall be conducted by the independent review entity and a determination made within twenty-one (21) calendar days of receipt of the request for external review. An extension of up to fourteen (14) calendar days may be allowed if the covered person and the insurer are in agreement.

Section 10. KRS 304.17A-625 is amended to read as follows:

(1) In making its decision, an independent review entity conducting the external review shall take into account all of the following:

(a) Information submitted by the insurer, the covered person, the authorized person, and the covered person's provider, including the following:

1. The covered person's medical records;

2. The standards, criteria, and clinical rationale used by the insurer to make its decision; and

3. The insurer's health benefit plan.

(b) Findings, studies, research, and other relevant documents of government agencies and nationally recognized organizations, including the National Institutes of Health, or any board recognized by the National Institutes of Health, the National Cancer Institute, the National Academy of Sciences, and the United States Food and Drug Administration, the ***Centers for Medicare & Medicaid Services***[~~Health Care Financing Administration~~] of the United States Department of Health and Human Services, and the Agency for Health Care Research and ***Quality***[~~Policy~~]; and

(c) Relevant findings in peer-reviewed medical or scientific literature, published opinions of nationally recognized medical specialists, and clinical guidelines adopted by relevant national medical societies.

(2) The independent review entity shall base its decision on the information submitted under subsection (1) of this section. In making its decision, the independent review entity shall consider safety, appropriateness, and cost effectiveness.

(3) The insurer shall provide any coverage determined by the independent review entity to be medically necessary. The independent review entity shall not be permitted to allow coverage for services specifically limited or excluded by the insurer in its health benefit plan. The decision shall apply only to the individual covered person's external review.

(4) Nothing in this section shall be construed as requiring an insurer to provide coverage for out of network services, procedures, or tests, except as set forth in KRS 304.17A-515(1)(c) and 304.17A-550.

(5) The insurer shall be responsible for the cost of the external review.

(6) The independent review entity shall provide to the covered person, treating provider, insurer, and the department a decision which shall include:

(a) The findings for either the insurer or covered person regarding each issue under review;

(b) The proposed service, treatment, drug, device, or supply for which the review was performed;

(c) The relevant provisions in the insurer's health benefit plan and how applied; and

(d) The relevant provisions of any nationally recognized and peer-reviewed medical or scientific documents used in the external review.

(7) The decision of the independent review entity shall not be made solely for the convenience of the insurer, the covered person, or the provider.

(8) Consistent with the rules of evidence, a written decision prepared by an independent review entity shall be admissible in any civil action related to the adverse determination. The independent review entity's decision shall be presumed to be a scientifically valid and accurate description of the state of medical knowledge at the time it was written.

(9) The decision of the independent review entity shall be binding on the insurer with respect to that covered person. Failure of the insurer to provide coverage as required by the independent review entity shall:

(a) Be a violation of the insurance code of a nature sufficient to warrant the commissioner revoking or suspending the insurer's license or certificate of authority; and

(b) Constitute an unfair claims settlement practice as set forth in KRS 304.12-230.

(10) Failure to provide coverage as required by the independent review entity shall also subject the insurer to the provisions of KRS 304.99-010 and 304.99-020 and require the insurer to pay the claim that was the subject of the external review, without need for the covered person or authorized person to further establish a right as to the payment amount. Reasonable

attorney fees associated with the actions of the insured necessary to collect amounts owed the covered person shall be assessed against and borne by the insurer.

(11) ***The insurer shall implement the decision of the independent review entity whether the covered person has disenrolled or remains enrolled with the insurer.***

(12) If the covered person has been disenrolled with the insurer, the insurer shall only be required to provide the treatment, service, drug, or device that was previously denied by the insurer, its agent, or designee and later approved by the independent review entity for a period not to exceed thirty (30) days.

(13) Within thirty (30) days of the decision in favor of the covered person by the independent review entity, the insurer shall provide written notification to the department that the decision has been implemented in accordance with this section.

(14) An independent review entity and any medical specialist the entity utilizes in conducting an external review shall not be liable in damages in a civil action for injury, death, or loss to person or property and is not subject to professional disciplinary action for making, in good faith, any finding, conclusion, or determination required to complete the external review. This subsection does not grant immunity from civil liability or professional disciplinary action to an independent review entity or medical specialist for an action that is outside the scope of authority granted in KRS 304.17A-621, 304.17A-623, and 304.17A-625.

(15)[~~(12)~~] Nothing in KRS 304.17A-600 to 304.17A-633 shall be construed to create a cause of action against any of the following:

(a) An employer that provides health care benefits to employees through a health benefit plan;

(b) A medical expert, private review agent, or independent review entity that participates in the utilization review, internal appeal, or external review addressed in KRS 304.17A-600 to 304.17A-633; or

(c) An insurer or provider acting in good faith and in accordance with any finding, conclusion, or determination of an Independent Review Entity acting within the scope of authority set forth in KRS 304.17A-621, 304.17A-623, and 304.17A-625.

(16)[~~(13)~~] The covered person, insurer, or provider in the external review may submit written complaints to the department regarding any independent review entity's actions believed to be an inappropriate application of the requirements set forth in KRS 304.17A-621, 304.17A-623, and 304.17A-625. The department shall promptly review the complaint, and if the department determines that the actions of the independent review entity were inappropriate, the department shall take corrective measures, including decertification or suspension of the independent review entity from further participation in external reviews. The department's actions shall be subject to the powers and administrative procedures set forth in subtitle 17A of KRS Chapter 304.

Section 11. KRS 304.17A-700 is amended to read as follows:

As used in KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123.

(1) "Adjudicate" means an insurer pays, contests, or denies a clean claim;

(2) "Claims payment time frame" means the time period prescribed under KRS 304.17A-702 following receipt of a clean claim from a provider at the address published by the insurer, whether it is the address of the insurer or a delegated claims processor, within which an insurer is required to pay, contest, or deny a health care claim;

(3) "Clean claim" means a properly completed billing instrument, paper or electronic, ***including the required health claim attachments, submitted in the following applicable form***[~~that does not involve coordination of benefits for third party liability, pre-existing condition investigations, or subrogation~~].

(a) A clean claim from an institutional provider shall consist of:

1. The UB-92 data set or its successor submitted on the designated paper or electronic format as adopted by the NUBC;

2. Entries stated as mandatory by the NUBC; and

3. Any state-designated data requirements determined and approved by the Kentucky State Uniform Billing Committee and included in the UB-92 billing manual effective at the time of service.

(b) A clean claim for dentists shall consist of the form and data set approved by the American Dental Association.

(c) A clean claim for all other providers shall consist of the HCFA 1500 data set or its successor submitted on the designated paper or electronic format as adopted by the National Uniform Claims Committee.

(d) A clean claim for pharmacists shall consist of a universal claim form and data set approved by the National Council on Prescription Drug Programs;

(4) "Commissioner" means the commissioner of the Department of Insurance;

(5) "Covered person" means a person on whose behalf an insurer offering a health benefit plan is obligated to pay benefits or provide services;

(6) "Department" means the Department of Insurance;

(7) "Electronic" or "electronically" means electronic mail, computerized files, communications, or transmittals by way of

technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(8) "Health benefit plan" has the same meaning as provided in KRS 304.17A-005;

(9) "Health care provider" or "provider" ***means a provider licensed in Kentucky as defined***[~~has the same meaning provided~~] in KRS 304.17A-005 and, for the purposes of KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123 only, shall include physical therapists licensed under KRS Chapter 327***, psychologists licensed under KRS Chapter 319, and social workers licensed under KRS Chapter 335***. Nothing contained in KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123 shall be construed to include physical therapists***, psychologists, and social workers*** as a health care provider or provider under KRS 304.17A-005;

(10) "Health claim ***attachments***[~~attachment~~]" means ***medical***[~~additional~~] information from a covered person's medical record[~~ to the basic claim form~~] required by the insurer ***containing medical information relating to the diagnosis, the treatment, or services rendered to the covered person and as may be required pursuant to KRS 304.17A-720***;

(11) "Institutional provider" means a health care facility licensed under KRS Chapter 216B;

(12) "Insurer" has the same meaning provided in KRS 304.17A-005;

(13) "Kentucky Uniform Billing Committee (KUBC)" means the committee of health care providers, governmental payors, and commercial insurers established as a local arm of NUBC to implement the bill requirements of the NUBC and to prescribe any additional billing requirements unique to Kentucky insurers;

(14) "National Uniform Billing Committee (NUBC)" means the national committee of health care providers, governmental payors, and commercial insurers that develops the national uniform billing requirements for institutional providers as referenced in accordance with the Federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. Chapter 6A, Subchapter XXV, sec. 300gg et seq.;

(15) "Retrospective review" means utilization review that is conducted after health care services have been provided to a covered person; and

(16) "Utilization review" has the same meaning as provided in ***subsection (17) of Section 4 of this Act***[~~KRS 211.461~~].

Section 12. KRS 304.17A-702 is amended to read as follows:

(1) Except for claims involving organ transplants, each insurer shall reimburse a provider for a clean claim or send a written or an electronic notice denying or contesting the claim within thirty (30) calendar days from the date that the claim is received by the insurer or any entity that administers or processes claims on behalf of the insurer. Clean claims involving organ transplants shall be paid, denied, or contested within sixty (60) calendar days from the date that the claim is received by the insurer or any entity that administers or processes claims on behalf of the ***insurer***[~~insurers~~].

(2) Within the applicable claims payment time frame, an insurer shall:

(a) Pay the total amount of the claim in accordance with any contract between the insurer and the provider;

(b) Pay the portion of the claim that is not in dispute and notify the provider, in writing or electronically, of the reasons the remaining portion of the claim will not be paid; or

(c) Notify the provider, in writing or electronically, of the reasons no part of the claim will be paid.

Section 13. KRS 304.17A-704 is amended to read as follows:

(1) (a) Within forty-eight (48) hours of receiving an original or corrected claim submitted electronically, an insurer, its agent, or designee shall acknowledge the date of receipt of the claim by an electronic transmission to the provider, its billing agent, or designee that submitted the claim; and

(b) Within twenty (20) calendar days of receipt of an original or corrected claim submitted by mail or other nonelectronic means, an insurer***, its agent, or designee*** shall acknowledge the date of receipt of the claim ***to the provider, its billing agent, or designee that submitted the claim***.

1. For claims containing all necessary information and having no errors, the insurer shall make available confirmation of receipt of the claim to the provider, ***its*** billing agent, or designee that submitted the claim. Acknowledgment may be in writing or the insurer***, its agent, or designee*** may list the claim and the date it was received on a file that can be accessed electronically by the provider***, its agent, or designee***.

2. Claims that contain errors or lack necessary information shall be acknowledged by an electronic transmission or in writing to the provider, ***its*** billing agent, or designee that submitted the claim.

(2) ***At the time of acknowledgment under paragraph (a) or (b) of subsection (1) of this section,*** an insurer***, its agent, or designee,*** shall notify the provider, ***its billing agent, or designee that submitted the claim,*** in writing or electronically,[~~ at the time that receipt of a claim is acknowledged,~~] of all information that is missing ***from the billing instrument, any errors in the billing instrument, or of any other circumstances***[~~or in error~~] which preclude it from being a clean claim.

(3) When an insurer***, its agent, or designee*** has notified a provider***, its billing agent, or designee that submitted the claim,*** that a claim contains errors, upon receipt of a corrected ***clean*** claim the insurer shall ***adjudicate***[~~pay~~] the corrected ***clean*** claim within the applicable claims payment time frame for a clean claim established in KRS 304.17A-702.

(4) By January 1, 2001, an insurer shall have in place a mechanism to inform providers of the status of a claim either through:

(a) Notation on the remittance; or

(b) By allowing providers to check claim status electronically at any time following submission of the claim to the insurer.

Section 14. KRS 304.17A-706 is amended to read as follows:

(1) An insurer may ***contest***[~~delay payment by contesting~~] a clean claim only in the following instances:

(a) The insurer has ***reasonable documented grounds to believe that the clean claim involves a preexisting condition, coordination of benefits within the meaning of KRS 304.18-085, or***[~~information~~] that another insurer is primarily responsible for the claim;

(b) The insurer will conduct a retrospective review of the services identified on the claim;

(c) The insurer has information that the claim was submitted fraudulently; or

(d) The covered person's or group's premium has not been paid.

(2)[~~An insurer shall pay any uncontested portion of a claim and provide written or electronic notification to the provider of the contested amount within the applicable claims payment time frame established in KRS 304.17A-702.~~

~~(3)~~] (a) If an insurer[~~ routinely~~] requires a provider to submit ***health claim*** attachments to the claim[~~ containing additional medical information summarizing the diagnosis, the treatment, or services rendered to the covered person~~] before the claim will be paid, the insurer shall identify the specific[~~ routinely~~] required[~~ information~~] ***health claim attachments*** in its provider manual or other document that sets forth the procedure for filing claims with the insurer. The insurer shall provide sixty (60) days' advance written notice of modifications to the provider manual that materially change the type or content of the ***health claim*** attachments ***or other documents*** to be submitted.

(b) If a provider submits a clean claim with the required ***health claim*** attachments as specified in the provider manual or other document that sets forth the procedure for filing claims with the insurer, the insurer shall pay or deny the claim within the required claims payment time frame established in KRS 304.17A-702.

(c) If an insurer conducts a retrospective review of a claim and requires an attachment not specified in the provider manual or other document that sets forth the procedure for filing claims, the insurer shall:

1. Notify the provider, in writing or electronically within the claims payment time frame established in KRS 304.17A-702, of the service that will be retrospectively reviewed and the specific information needed from the provider regarding the insurer's review of a claim;
2. Complete the retrospective review within twenty (20) business days of the insurer's receipt of the medical information described in this subsection; and
3. ***Subject to paragraph (d) of this subsection,*** add interest to the amount of the claim, to be paid at a rate of twelve percent (12%) per annum, or at a rate in accordance with KRS 304.17A-730, accruing from the ***appropriate claim payment time frame established in Section 7 of this Act***[~~thirty-first day~~] after the claim was received by the insurer through the date upon which the claim is paid.

(d) If the provider fails to submit the information requested under subparagraph (c) 1. of this subsection within fifteen (15) business days from the date of the receipt of the notice, the insurer shall not be required to pay interest.

(3)[~~(4)~~] (a) If a claim or portion thereof is contested by an insurer on the basis that the insurer has not received information reasonably necessary to determine insurer liability for the claim or portion thereof, ***or if the insurer contests the claim on the reasonable and documented belief that the claim involves the coordination of benefits within the meaning of KRS 304.18-085, or questions of pre-existing conditions,*** the insurer shall, within the applicable claims payment time frame established in KRS 304.17A-702, provide written or electronic notice to the provider, covered person, ***group policyholder,*** or ***other*** insurer, as appropriate, with an itemization of all new, never-before-provided information that is needed.

(b) The insurer shall pay or deny the claim within thirty (30) calendar days of receiving the additional information described in paragraph (a) of this subsection. ***If the insurer does not receive the additional information described in paragraph (a) of this subsection within fifteen (15) business days from the date of receipt of the notice set forth in paragraph (a) of this subsection, the insurer may deny the claim. Any claim denied under this paragraph may be resubmitted by the provider and any resubmitted claim shall not be denied on the basis of timeliness if the resubmitted claim is made with the timeframe for submitting claims established by the insurer beginning on the date of denial.***

Section 15. KRS 304.17A-714 is amended to read as follows:

(1) Except for overpayments which are a result of an error in the payment rate or method, an insurer that determines that a provider was overpaid shall, within twenty-four (24) months from the date that the insurer paid the claim, provide written or electronic notice to the provider of the amount of the overpayment, the covered person's name, patient identification number, date of service to which the overpayment applies, insurer reference number for the claim, and the basis for determining that an overpayment exists. Electronic notice includes E-mail or facsimile where the provider agreed in advance in writing to receive such notices. The insurer shall either:

(a) Request a refund from the provider; or

(b) Indicate on the notice that, within thirty (30) calendar days from the postmark date or electronic delivery date of the insurer's notice, if the insurer does not receive a notice of provider dispute in accordance with subsection (2) of this section, the amount of the overpayment will be recouped from future payments.

(2) If a provider disagrees with the amount of the overpayment, the provider shall within thirty (30) calendar days from the postmark date or the electronic delivery date of the insurer's written notice dispute the amount of the overpayment by submitting additional information to the insurer.

(3) If a provider files a dispute in accordance with subsection (2) of this section, no recoupment shall be made until the dispute is resolved. If a provider does not dispute the amount of the overpayment and does not provide a refund as required in subsection (2) of this section, the insurer may recoup the amount due from future payments.

(4) All disputes submitted by providers pursuant to subsection (2) of this section shall be processed in accordance and completed within thirty (30) days with the insurer's provider appeals process.

(5) An insurer may recover an overpayment resulting from an error in the payment rate or method by requesting a refund from the provider or making a recoupment of the overpayment from the provider, subject to the provisions of subsection (6) of this section. A provider may dispute such recoupment in accordance with the provisions contained in KRS 304.17A-708.

(6) If an insurer chooses to collect an overpayment made to a provider through a recoupment against future provider payments, the insurer shall, within twenty-four (24) months from the date that the insurer paid the claim, ***and at the actual time of recoupment*** give the provider written ***or electronic*** documentation that specifies:

(a)[~~(1)~~] The amount of the recoupment;

(b)[~~(2)~~] The covered person's name to whom the recoupment applies;

(c)[~~(3)~~]Patient identification number; and

(d)[~~(4)~~] Date of service.

Section 16. KRS 304.17A-722 is amended to read as follows:

(1) No later than ninety (90) days following ***the effective date of this Act***[~~July 14, 2000~~], the department shall promulgate administrative regulations requiring all insurers to report information ***on a calendar quarter basis***[~~, according to timetables prescribed by the department but no less than annually,~~] on prompt payment of claims ***to providers, as defined in Section 11 of this Act, that shall be limited to***[~~that shall include~~] the following:

(a) ***The number of clean claims received by the insurer, its agent, or designee during the reporting period***[~~Percentage of clean claims paid within the claims payment time frame~~];

(b) ***The percentage of clean claims received by the insurer, its agent, or designee that were:***

1. Adjudicated within the claims payment timeframe;

2. Adjudicated within one (1) to thirty (30) days from the end of the claims payment timeframe;

3. Adjudicated within thirty-one (31) to sixty (60) days from the end of the claims payment timeframe;

4. Adjudicated within sixty-one (61) to ninety (90) days from the end of the claims payment timeframe;

5. Adjudicated more than ninety (90) days from the end of the claims payment timeframe; and

6. Not yet adjudicated;[~~Percentage of clean claims paid after the claims payment time frame and the number of days for hospitals, physicians, and all other providers, excluding pharmacies, within which the claims were finally adjudicated, reporting them in thirty-one (31) to sixty (60) day, sixty-one (61) to ninety (90) day, and more than ninety (90) day intervals; and~~]

(c) ***The percentage of clean claims received during the reporting quarter that were paid and not denied or contested:***

1. Within the claims payment timeframe;

2. Within one (1) to thirty (30) days from the end of the claims payment timeframe;

3. Within thirty-one (31) to sixty (60) days from the end of the claims payment timeframe;

4. Within sixty (60) to ninety (90) days from the end of the claims payment timeframe;

5. More than ninety (90) days from the end of the claims payment timeframe; and

6. Not yet paid;

(d) Amount of interest paid***; and***

(e) For clean claims received during the reporting quarter that were not denied or contested, the percentage of the total dollar amount of those claims that were paid within the claims payment timeframe.

(2) ***Data required in subsection (1) of this section shall be reported for hospitals, physicians, and all other providers, excluding pharmacies.***

(3) Insurers shall submit information required in subsection (1) of this section to the department no later than one hundred eighty (180) days following the close of the reporting quarter.

(4) The department shall, as part of the market conduct survey of each insurer, audit the insurer to determine compliance with KRS 304.17A-700 to 304.17A-730 and KRS 304.14-135 and 304.99-123. Findings shall be made available to the public upon request.

(5)[~~(3)~~] The commissioner shall annually present to the Interim Joint Committee on Banking and Insurance and to the Governor a report on the payment practices of insurers and compliance with the provisions of KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123 and the commissioner's enforcement activities, including the number of complaints received and those acted upon by the department.

Section 17. KRS 304.17A-730 is amended to read as follows:

(1) An insurer that fails to pay, deny, or settle a clean claim in accordance with KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123 shall pay interest according to the following schedule on the amount of the claim that remains unpaid:

(a) For claims that are paid between ***one (1) and thirty (30)***[~~thirty-one (31) and sixty (60)~~] days from the date that ***payment was due under Section 12 of this Act***[~~the claim was received by the insurer or any entity that administers or processes claims on behalf of the insurer~~], interest at a rate of twelve percent (12%) per annum shall accrue from the date payment was due under KRS 304.17A-702;

(b) For claims that are paid between ***thirty-one (31) and sixty (60)***[~~sixty-one (61) days and ninety (90)~~] days from the date that ***payment was due under Section 12 of this Act***[~~the claim was received by the insurer or any entity that administers or processes claims on behalf of the insurer~~], interest at a rate of eighteen percent (18%) per annum shall accrue from the date payment was due under KRS 304.17A-702; and

(c) For claims that are paid more than ***sixty (60)***[~~ninety (90)~~] days from the date ***payment was due under Section 12 of this Act***[~~that the claim was received by the insurer or any entity that administers or processes claims on behalf of the insurer~~], interest at a rate of twenty-one percent (21%) per annum shall accrue from the date that payment was due under KRS 304.17A-702.

(2) When paying a claim after the time required by KRS 304.17A-702, the insurer shall add the interest payable to the amount of the unpaid claim without the necessity for any claim for that interest to be made by the provider filing the original claim. The interest obligation otherwise imposed by this section shall not apply if the failure to pay, deny, or settle a claim is due to, or results from, in whole or in part, acts or events beyond the control of the insurer, including but not limited to, acts of God, natural disasters, epidemics, strikes or other labor disruptions, war, civil disturbance, riot, or complete or partial disruptions of facilities.

Section 18. KRS 304.99-123 is amended to read as follows:

(1) In addition to any other penalty or remedy authorized by law, the department may assess the following fines for noncompliance with KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123:

(a) A fine of one thousand dollars ($1,000) per day or ten percent (10%) of the unpaid claim amount, whichever is greater, for each day that a clean claim remains unpaid in violation of KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123.

(b) Except for the late payment of claims under subsection (2) of this section, a fine of up to ten thousand dollars ($10,000) where the commissioner determines that an insurer has willfully and knowingly violated KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123 or has a pattern of repeated violations of KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123.

(2) For purposes of paragraph (a) of subsection (1) of this section, an insurer is in compliance when***:***

(a) Ninety-five percent (95%) of the clean claims ***received by the insurer, its agent, or designee***[~~paid~~] during each calendar quarter, excluding pharmaceutical claims ***were adjudicated within the claims payment timeframes in accordance with Section 12 of this Act; and***

(b) At least ninety percent (90%) of the total dollar amount for clean claims received by the insurer, its agent, or designee during each calendar quarter, excluding pharmaceutical claims, that were not denied or contested, were paid within the claims payment timeframes established in Section 12 of this Act[~~, were paid within thirty (30) days and the total dollar amount paid within thirty (30) days, excluding the amount paid for pharmaceutical claims, equaled at least ninety percent (90%) of the total dollar amount paid for clean claims during that calendar quarter~~].

Section 19. KRS 304.18-0983 is amended to read as follows:

(1) All insurers issuing group or blanket health insurance policies and certificates in this Commonwealth providing coverage on an expense-incurred basis shall make available and offer to the purchaser coverage for:

(a) ***The following, if an insurer provides medical and surgical benefits with respect to a mastectomy, in a manner determined in consultation with the attending physician and the covered person, and subject to annual deductibles and coinsurance provisions as may be deemed appropriate and as are consistent with those*** *established for other benefits under the coverage:*

1. *All stages of* breast reconstruction surgery *of the breast on which the mastectomy has been performed*[~~following a mastectomy that resulted from breast cancer if the insurer also covers mastectomies~~];

2. *Surgery and reconstruction of the other breast to produce a symmetrical appearance; and*

3. *Prostheses and physical complications of all stages of mastectomy, including lymphedemas;*

(b) Diagnosis and treatment of endometriosis and endometritis if the insurer also covers hysterectomies; and

(c) Bone density testing for women age thirty-five (35) *years* and older, as indicated by the health-care provider, in accordance with standard medical practice, to obtain baseline data for the purpose of early detection of osteoporosis.

(2) No insurer under this section shall offer *medical and surgical benefits with respect to a mastectomy*[~~coverage for mastectomies~~] which requires the procedure be performed on an outpatient basis.

(3) An insurer shall provide written notice to a covered person of the availability of medical and surgical benefits with respect to a mastectomy upon enrollment and annually thereafter.

(4) An insurer shall not:

(a) Deny eligibility, or continued eligibility, to an individual to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of 42 U.S.C. sec. 300gg-6; and

(b) Penalize or otherwise reduce or limit the reimbursement of an attending provider or provide incentives to an attending provider, to induce the provider to provide care to an individual in a manner inconsistent with 42 U.S.C. sec. 300gg-6.

Section 20. KRS 304.32-1593 is amended to read as follows:

(1) All nonprofit hospital, medical-surgical, dental, and health service corporations issuing contracts in this Commonwealth providing hospital, medical, or surgical expense benefits shall make available and offer to the purchaser coverage for:

(a) *The following, if medical and surgical benefits with respect to a mastectomy are covered, in a manner determined in consultation with the attending physician and the covered person, and subject to annual deductibles and coinsurance provisions as may be deemed appropriate and as are consistent with those established for other benefits under the coverage:*

1. *All stages of* breast reconstruction surgery *of the breast on which the mastectomy has been performed*[~~following a mastectomy that resulted from breast cancer if the insurer also covers mastectomies~~];

2. *Surgery and reconstruction of the other breast to produce a symmetrical appearance; and*

3. *Prostheses and physical complications of all stages of mastectomy, including lymphedemas;*

(b) Diagnosis and treatment of endometriosis and endometritis if the insurer also covers hysterectomies; and

(c) Bone density testing for women age thirty-five (35) *years* and older, as indicated by the health-care provider, in accordance with standard medical practice, to obtain baseline data for the purpose of early detection of osteoporosis.

(2) No insurer under this section shall offer *medical and surgical benefits with respect to a mastectomy*[~~coverage for mastectomies~~] that requires the procedure be performed on an outpatient basis.

(3) An insurer shall provide written notice to a covered person of the availability of medical and surgical benefits with respect to a mastectomy upon enrollment and annually thereafter.

(4) An insurer shall not:

(a) Deny eligibility, or continued eligibility, to an individual to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of 42 U.S.C. secs. 300gg-6 and 300gg-52; and

(b) Penalize or otherwise reduce or limit the reimbursement of an attending provider or provide incentives to an attending provider, to induce the provider to provide care to an individual in a manner inconsistent with 42 U.S.C. secs. 300gg-6 and 300gg-52.

Section 21. KRS 304.38-1934 is amended to read as follows:

(1) Health maintenance organizations issuing contracts in this Commonwealth that provide hospital, medical, or surgical expense benefits shall make available and offer to the purchaser coverage for:

(a) *The following, if a health maintenance organization provides medical and surgical benefits with respect to a mastectomy, in a manner determined in consultation with the attending physician and the covered person, and subject to annual deductibles and coinsurance provisions as may be deemed appropriate and as are consistent with those established for other benefits under the coverage:*

1. *All stages of* breast reconstruction surgery *of the breast on which the mastectomy has been performed*[~~following a mastectomy that resulted from breast cancer if the insurer also covers~~

~~mastectomies~~];

2. Surgery and reconstruction of the other breast to produce a symmetrical appearance; and

3. Prostheses and physical complications of all stages of mastectomy, including lymphedemas;

(b) Diagnosis and treatment of endometriosis if the *health maintenance organization*[~~insurer~~] also covers hysterectomies; and

(c) Bone density testing for women age thirty-five (35) *years* and older, as indicated by the health-care provider, in accordance with standard medical practice, to obtain baseline data for the purpose of early detection of osteoporosis.

(2) No *health maintenance organization*[~~insurer~~] under this section shall offer *medical and surgical benefits with respect to mastectomy*[~~coverage for mastectomies~~] that requires the procedure be performed on an outpatient basis.

(3) A health maintenance organization shall provide written notice to a covered person of the availability of medical and surgical benefits with respect to a mastectomy upon enrollment and annually thereafter.

(4) A health maintenance organization shall not:

(a) Deny eligibility, or continued eligibility, to an individual to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of 42 U.S.C. secs. 300gg-6 and 300gg-52; and

(b) Penalize or otherwise reduce or limit the reimbursement of an attending provider or provide incentives to an attending provider, to induce the provider to provide care to an individual in a manner inconsistent with 42 U.S.C. secs. 300gg-6 and 300gg-52.

Section 22. KRS 304.32-320 is amended to read as follows:

Any private employer doing business in this state who provides for his employees on a self-insured basis hospital or surgical benefits shall notify the Department of Insurance of the existence of the program within sixty (60) days of June 17, 1978. Any employer doing business in this state who implements for his employees on a self-insured basis a plan for providing hospital or surgical benefits shall notify the Department of Insurance not less than thirty (30) days prior to implementing such plan*, and shall include in the notice the name of any outside third party administrator. Any change in third party administrators shall be reported to the Department of Insurance within thirty (30) days of the change. The Department of Insurance shall make this information available upon request*.

Section 23. The following KRS section is repealed:

304.17A-350 Payment and contest of claims -- Circumstances under which insurer may delay payment or require additional information from provider.

SB 41, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act, "short-term nursing home insurance policies" means any insurance policy or rider advertised, marketed, offered, or designed to provide coverage for less than twelve (12) consecutive months for each covered person on an expense-incurred, indemnity, prepaid, or other basis for one (1) or more necessary or medically necessary diagnostic, preventative, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital unless the hospital or unit is licensed or certified to provide services in a skilled nursing facility, extended care facility, intermediate care facility, convalescent nursing home, personal care facility, home health care agency, adult day care facility, and assisted living facility. This term shall also include a policy or rider that provides for payment of benefits based upon cognitive impairment or loss of functional capacity. Short-term nursing home insurance policies may be issued by insurers, fraternal benefit societies, nonprofit hospitals, medical-surgical, dental, and health services corporations, health maintenance organizations, or any similar organization to the extent they are otherwise authorized to issued life or health insurance. Short-term nursing home insurance policies shall not include any insurance policy which is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity, major medical expense coverage, disability income or related-asset protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit coverage.

SECTION 2. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any short-term nursing home product issued on or after the effective date of this Act shall be subject to the provisions of Section 2, Section 3, Section 4, Section 5, and Section 6 of this Act.

SECTION 3. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall promulgate administrative regulations that include standards for full and fair disclosure setting forth the manner, content, and required disclosures for sale of short-term nursing home insurance policies, terms of renewability, initial and subsequent conditions or eligibility, nonduplication of coverage provisions, coverage of dependents, pre-existing conditions, termination of insurance, continuation of conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions, and definitions.

SECTION 4. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner may promulgate administrative regulations establishing loss ratio standards for short-term nursing home insurance policies.

SECTION 5. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Short-term nursing home insurance policy applicants shall have the right to return the policy or certificate within thirty (30) days of its delivery from the insurer to the policyowner and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. Short-term nursing home insurance policies and certificates shall have a notice prominently printed on the first page or attached thereto stating in substance that the applicant shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. The insurer shall retain proof of receipt of the delivery of the policy from the insurer to the policyowner.

SECTION 6. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any short-term nursing home insurance policy issued on or after the effective date of this Act which provides coverage for assisted living benefits shall cover services received in any assisted living community which:

  (a) Meets the requirements of KRS 194A.700 to 194A.729 and any administrative regulations promulgated under KRS 194A.700 to 194A.729; and

  (b) Meets any additional requirements of an assisted living community set forth in the short-term nursing home insurance policy approved by the commissioner.

(2) Any short-term nursing home insurance policy issued on or after the effective date of this Act which provides coverage for adult day care services shall cover services received in any adult day care facility which:

  (a) Meets the requirements of KRS 205.950 or 216B.0443 and any administrative regulations promulgated under KRS 205.950 or 216B.0443; and

  (b) Meets any additional requirements of an adult day care center set forth in the short-term nursing home insurance policy approved by the commissioner.

SECTION 7. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall issue administrative regulations to establish standards for premium rate practices and rate increases for long-term care benefits.

SECTION 8. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall promulgate administrative regulations to establish standards for incidental long-term care benefits.

Section 9. KRS 304.14-430 is amended to read as follows:

(1) All insurance policies subject to the provisions of KRS 304.14-420 to 304.14-450 shall contain as the first page or first page of text, if it is preceded by a title page or pages, a cover sheet or sheets as provided in this section. The cover sheet or sheets shall be printed in legible type and readable language, and shall contain at least the following:

  (a) A brief statement that the policy is a legal contract between the policy owner and the company;

  (b) The statement "READ YOUR POLICY CAREFULLY. This cover sheet provides only a brief outline of some of the important features of your policy. This ***cover sheet*** is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth, in detail, the rights and obligations of both you and your insurance company. IT IS THEREFORE IMPORTANT THAT YOU READ YOUR POLICY." and

  (c) An index of the major provisions of the policy or contract and the pages on which they are found which may include the following items:

    1. The person or persons insured by the policy;

    2. The applicable events, occurrences, conditions, losses or damages covered by the policy;

    3. The limitations or conditions on the coverage of the policy;

    4. Definitional sections of the policy;

    5. Provision governing the procedure for filing a claim under the policy;

    6. Provisions governing cancellation, renewal, or amendment of the policy by either the insurer or the policyowner;

    7. Any options under the policy; and

    8. Provisions governing the insurer's duties and powers in the event that suit is filed against the insured.

(2) The cover sheet may include, either as part of the index or as a separate section, a brief summary of the extent and types of coverage in the policy.

(3) No cover sheet shall be used unless it has been filed with and approved by the commissioner. The cover sheet shall be deemed approved sixty (60) days after filing unless disapproved by the commissioner within the sixty (60) day period, subject to a reasonable extension of times as the commissioner may require by notice given within the sixty (60) day

period. The commissioner shall disapprove any cover sheet which does not meet the requirements of this section. Any disapproval shall be delivered to the insurer in writing, stating the grounds therefor.

Section 10. KRS 304.14-435 is amended to read as follows:

All policy forms filed with the department, and any other insurance policy or claim-related information, shall be written in the English language. ***Applications required to be filed with the department may also be filed in a language other than English. Non-English versions of applications shall be filed with the department and shall be accompanied by a certification written in English that the non-English version is a complete and accurate translation of the English form filed.*** This section shall not prohibit an insurer from advertising or providing information ***related to the policy or claims with***~~[or]~~ translations to consumers in a language other than English***.***~~[, if the advertisement or informational materials clearly state the insurance policy being advertised is available only in English. However,]~~ If there is a dispute ***between the English version and the non-English version, the English translation shall control and the non-English version shall carry a disclaimer in the non-English language to this effect.***~~[,]~~ The insurance policy is controlling and any advertisements or informational materials used by an insurer shall not be construed to modify or change the insurance policy.

Section 11. KRS 304.14-560 is amended to read as follows:

(1) The commissioner of insurance shall biennially compile a consumer's guide to long-term care insurance in Kentucky. The consumer's guide shall cover all insurers offering health insurance policies in Kentucky, including health maintenance organizations, which provide coverage for services provided in long-term care facilities as defined in KRS 216.510(1). The purpose of the consumer's guide shall be to improve the buyer's ability to select the most appropriate long-term care coverage and to improve the buyer's understanding of long-term care. The consumer's guide shall contain, at a minimum, the following information:

(a) Definitions of long-term care services provided in Kentucky, the cost of services, sources of payment for long-term care, and eligibility for assistance programs;

(b) Factors that affect premium rates, such as age, deductibles, duration of benefits, and daily benefits paid;

(c) An explanation of the types of limitations contained in long-term care policies;

(d) A check list for the use of potential buyers of long-term care insurance which covers items that should be considered when selecting a long-term care insurance policy; and

(e) A comparison of the long-term care policies offered for sale in Kentucky. The comparison shall be updated at least annually, shall not recommend one policy over another, and shall provide the following information for policies: premiums at ages fifty-five (55), sixty-five (65), and seventy-five (75); services covered; length of coverage; limitations on coverage; prior institutionalization requirements; elimination period; and any other information the commissioner deems appropriate.

(2) ***The commissioner shall issue administrative regulations setting forth specific information to be provided by insurers writing long-term health care insurance in Kentucky to the department to complete the biennially compiled consumer's guide to long-term care insurance in Kentucky.***

(3) The commissioner shall distribute, free of charge, a copy of the consumer's guide to long-term care insurance to any person upon request.

(4)~~[(3)]~~ The commissioner shall assess against insurers writing long-term health care insurance in Kentucky on an equitable basis the cost of compiling, printing, and distributing the consumer's guide to long-term care.

Section 12. KRS 304.14-600 is amended to read as follows:

As used in KRS 304.14-600 to 304.14-625, unless the context requires otherwise:

(1) ***"Incidental" indicates that the value of the long-term care benefits provided in a policy is less than ten percent (10%) of the total value of the benefits provided over the life of the policy. Policies may include life insurance, disability insurance, and annuities. These values shall be measured as of the date of issue.***

(2) "Long-term care insurance" means any insurance policy or rider advertised, marketed, offered, or designed to provide coverage for not less than twelve (12) consecutive months for each covered person on an expense-incurred, indemnity, prepaid, or other basis for one (1) or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital unless the hospital or unit is licensed or certified to provide long-term services. This term includes group and individual annuities and life insurance policies or riders which provide directly or which supplement long-term care insurance. This term~~[also]~~ includes a policy or rider which provides for payment of benefits based upon cognitive impairment or the loss of functional capacity. ***This term also includes qualified long-term care insurance contracts as defined in 26 U.S.C. sec. 7702B(b).*** Long-term care insurance may be issued by insurers, fraternal benefit societies, nonprofit hospital, medical-surgical, dental, and health service corporations, health maintenance organizations, or any similar organization to the extent they are otherwise authorized to issue life or health insurance. Long-term care insurance shall not include any insurance policy which is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity ***coverage***, major medical expense coverage, disability income or related asset-protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit coverage. With regard to life insurance, this term does not include life insurance policies which accelerate the death benefit specifically for one (1) or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention, or permanent institutional confinement, and which provide the option of a lump-sum payment for those benefits and in which neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care. Any product advertised, marketed, or offered as long-term care insurance ***or nursing home insurance which otherwise meets the definition of long-term care insurance*** shall be subject to the provisions of KRS 304.14-600 to 304.14-625.

(3)[~~(2)~~] "Applicant" means:

(a) In the case of an individual long-term care insurance policy, the person who seeks to contract for benefits; and

(b) In the case of a group long-term care insurance policy, the proposed certificate holder.

(4)[~~(3)~~] "Certificate" means any certificate issued under a group long-term care insurance policy, which policy has been delivered or issued for delivery in Kentucky, except as provided in KRS 304.14-610.

(5)[~~(4)~~] "Group long-term care insurance" means a long-term care insurance policy which is delivered or issued for delivery in Kentucky ***by an insurer, fraternal benefit society, nonprofit health service corporation, or health maintenance organization,*** and ***which is*** issued to:

(a) One (1) or more employers or labor organizations, or to a trust or to the trustees of a fund established by one (1) or more employers or labor organizations, or a combination thereof, for employees or former employees or a combination thereof, or for members or former members or a combination thereof, of the labor organizations;

(b) Any professional, trade, or occupational association for its members or former or retired members, or combination thereof, if the association:

1. Is composed of individuals all of whom are or were actively engaged in the same profession, trade, or occupation; and

2. Has been maintained in good faith for purposes other than obtaining insurance;

(c) An association or a trust or the trustee of a fund established, created, or maintained for the benefit of members of one (1) or more associations. Prior to advertising, marketing, or offering the policy within Kentucky, the insurer of the association shall file with the commissioner evidence that the association has at the outset a minimum of one hundred (100) persons and has been organized and maintained in good faith for purposes other than that of obtaining insurance, has been in active existence for at least one (1) year, and has a constitution and bylaws which provide:

1. The association holds regular meetings not less than annually to further the purposes of the members;

2. Except for credit unions, the association collects dues or solicits contributions from members; and

3. The members have voting privileges and representation on the governing board and committees.

The association shall be deemed to satisfy the organizational requirements unless the commissioner makes a finding that the association does not satisfy those organizational requirements within the time set forth in KRS 304.14-120; or

(d) A group other than that described in paragraphs (a), (b), and (c) of this subsection, subject to a finding by the commissioner that:

1. The issuance of the group policy is not contrary to the best interest of the public;

2. The issuance of the group policy would result in economies of acquisition or administration; and

3. The benefits are reasonable in relation to the premiums charged.

(6)[~~(5)~~] "Policy" means any policy, contract, subscriber, agreement, enrollment agreement, rider, or endorsement delivered or issued for delivery in Kentucky.

Section 13. KRS 304.14-610 is amended to read as follows:

Group long-term care insurance coverage shall not be offered to a resident of Kentucky under a group policy issued in another state to a group described in KRS 304.14-600***(5)***[~~(4)~~](d) unless the commissioner or the insurance supervisory official of another state having statutory and regulatory long-term care insurance requirements substantially similar to KRS 304.14-600 to 304.14-625, has made a determination that these requirements have been met. Certificates of group long-term care insurance shall be filed with the commissioner as required by KRS 304.14-120.

Section 14. KRS 304.14-615 is amended to read as follows:

(1) The commissioner shall promulgate administrative regulations that include standards for full and fair disclosure setting forth the manner, content, and require disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, pre-existing conditions, ***incidental benefits, lapse of insurance,*** termination of insurance, continuation of conversion, probationary periods, limitations, exceptions, reductions, elimination periods, ***premium rating practices and rating increases,*** requirements for replacement, recurrent conditions, and definitions of terms.

(2) A long-term care insurance policy shall not:

(a) Be canceled, nonrenewed, or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder;

(b) Contain a provision establishing a new waiting period in the event existing coverage is covered to or replaced by a new or other form within the same insurer, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder; or

(c) Provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than coverage for lower levels of care.

(3) (a) A long-term care insurance policy or certificate, other than a policy or certificate thereunder issued to a group defined in KRS 304.14-600*(5)*[~~(4)~~](a), shall not use a definition of "pre-existing condition" which is more restrictive than the following: "Pre-existing condition means a condition for which medical services or treatment was recommended by, or received from, a provider of health care services within six (6) months preceding the effective date of coverage of an insured person."

(b) A long-term care insurance policy or certificate, other than a policy or certificate under a policy issued to a group as defined in KRS 304.14-600*(5)*[~~(4)~~](a), shall not exclude coverage for a loss or confinement which is the result of a pre-existing condition unless that loss or confinement begins within six (6) months following the effective date of coverage of an insured person.

(c) The commissioner may extend the limitation periods set forth in subsection (3)(a) and (b) of this section as to specific age group categories in specific policy forms upon finding that the extension is in the best interest of the public.

(d) The definition of "pre-existing condition" does not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant, and, on the basis of the answers on that application, from underwriting in accordance with that insurer's established underwriting standards. Unless otherwise provided in the policy or certificate, a pre-existing condition, regardless of whether it is disclosed on the application, need not be covered until the waiting period described in paragraph (b) of this subsection expires. A long-term care insurance policy or certificate shall not exclude or use waivers or riders of any kind to exclude, limit, or reduce coverage or benefits for specifically named or described pre-existing diseases or physical conditions beyond the waiting period described in paragraph (b) of this subsection.

(4) (a) A long-term care insurance policy shall not be delivered or issued for delivery in this Commonwealth if the policy:

1. Conditions eligibility for any benefits on a prior hospitalization requirement;

2. Conditions eligibility for benefits provided in an institutional care setting on the receipt of a higher level of institutional care; or

3. Conditions eligibility for any benefits other than waiver of premium, post-confinement, post-acute care, or recuperative benefits on a prior institutionalization requirement.

(b) 1. A long-term care insurance policy containing post-confinement, post-acute care, or recuperative benefits shall clearly label in a separate paragraph of the policy or certificate entitled "limitations or conditions on eligibility for benefits" the limitations or conditions, including any required number of days of confinement.

2. A long-term care insurance policy or rider which conditions eligibility of noninstitutional benefits on the prior receipt of institutional care shall not require a prior institutional stay of more than thirty (30) days.

(5) The commissioner may promulgate administrative regulations establishing loss ratio standards for long-term care insurance policies if a specific reference to long-term care insurance policies is contained in the administrative regulations.

(6) Long-term care insurance applicants shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. Long-term care insurance policies and certificates shall have a notice prominently printed on the first page or attached thereto stating in substance that the applicant shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, other than a certificate issued pursuant to a policy issued to a group defined in KRS 304.14-600*(5)*[~~(4)~~](a), the applicant is not satisfied for any reason.

(7) (a) An outline of coverage shall be delivered to a prospective applicant for long-term care insurance at the time of initial solicitation through means which prominently direct the attention of the recipient to the document and its purpose.

1. The commissioner shall prescribe a standard format, including style, arrangement and overall appearance, and the content of an outline of coverage.

2. In the case of agent solicitations, an agent shall deliver the outline of coverage prior to the presentation of an application or enrollment form.

3. In the case of direct response solicitations, the outline of coverage shall be presented in conjunction with any application or enrollment form.

(b) The outline of coverage shall include:

1. A description of the principal benefits and coverage provided in the policy;
2. A statement of the principal exclusions, reductions, and limitations contained in the policy;
3. A statement of the terms under which the policy or certificate, or both, may be continued in force or discontinued, including any reservation in the policy of a right to change premium. Continuation or conversion provisions of group coverage shall be specifically described;
4. A statement that the outline of coverage is a summary only, not a contract of insurance, and that the policy or group master policy contains governing contractual provisions;
5. A description of the terms under which the policy or certificate may be returned and premium refunded; and
6. A brief description of the relationship of the cost of care and benefits.

(8) A certificate issued pursuant to a group long-term care insurance policy which is delivered or issued for delivery in this Commonwealth or a certificate subject to approval by the commissioner shall include:

(a) A description of the principal benefits and coverage provided in the policy;

(b) A statement of the principal exclusions, reductions, and limitations contained in the policy; and

(c) A statement that the group master policy determine governing contract provisions.

(9) At the time of policy delivery, a policy summary shall be delivered for an individual life insurance policy which provides long-term care benefits within the policy or by rider. In the case of direct response solicitations, the insurer shall deliver the policy summary upon the applicant's request, but regardless of any request, the insurer shall deliver the policy summary no later than at the time of policy delivery. In addition to complying with all applicable requirements, the summary shall also include:

(a) An explanation of how the long-term care benefit interacts with other components of the policy, including deductions from death benefits;

(b) An illustration of the amount of benefits, the length of benefit, and the guaranteed lifetime benefits, if any, for each covered person;

(c) Any exclusions, reductions, and limitations on benefits of long-term care insurance; and

(d) If applicable to the policy type, the summary shall also include:

1. A disclosure of the effects of exercising other rights under the policy;
2. A disclosure of guarantees related to long-term care of insurance charges; and
3. Current and projected maximum lifetime benefits.

(10) When a long-term care benefit funded through a life insurance vehicle by the acceleration of the death benefit is in benefit payment status, a monthly report shall be provided to the policyholder by the insurer. The report shall include:

(a) Any long-term care benefits paid out during the month;

(b) An explanation of any changes in the policy, such as death benefits or cash values, due to long-term care benefits being paid out; and

(c) The amount of long-term care benefits existing or remaining.

(11) Any policy or rider advertised or marketed, or offered as long-term care or nursing home insurance shall comply with the provisions of KRS 304.14-600 to 304.14-625.

SB 146, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17A-605 is amended to read as follows:

(1) KRS 304.17A-600, 304.17A-603, 304.17A-605, 304.17A-607, 304.17A.-609, 304.17A-611, 304.17A-613, and 304.17A-615 set forth the requirements and procedures regarding utilization review and shall apply to:

(a) Any insurer or its private review agent that provides or performs utilization review in connection with a health benefit plan ***or a limited health service benefit plan***; and

(b) Any private review agent that performs utilization review functions on behalf of any person providing or administering health benefit plans ***or limited health service benefit plans***.

(2) Where an insurer or its agent provides or performs utilization review, and in all instances where internal appeals as set forth in KRS 304.17A-617, are involved, the insurer or its agent shall be responsible for:

(a) Monitoring all utilization reviews and internal appeals carried out by or on behalf of the insurer;

(b) Ensuring that all requirements of KRS 304.17A-600 to 304.17A-633 are met;

(c) Ensuring that all administrative regulations promulgated in accordance with KRS 304.17A-609, 304.17A-613, and

304.17A-629 are complied with; and

(d) Ensuring that appropriate personnel have operational responsibility for the performance of the insurer's utilization review plan.

(3) A private review agent that operates solely under contract with the federal government for utilization review or patients eligible for hospital services under Title XVIII of the Social Security Act shall not be subject to the registration requirements set forth in KRS 304.17A-607, 304.17A-609, and 304.17A-613.

SECTION 2. SUBTITLE 17C OF KRS CHAPTER 304 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) "At the time of enrollment" means the same as defined in KRS 304.17A-005(2);

(2) "Enrollee" means an individual who is enrolled in a limited health service benefit plan;

(3) "Health care provider" or "provider" means the same as defined in KRS 304.17A-005(19);

(4) "Insurer" means any insurance company, health maintenance organization, self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA, provider-sponsored integrated health delivery network, self-insured employer-organized association, nonprofit hospital, medical-surgical, dental, health service corporation, or limited health service organization authorized to transact health insurance business in Kentucky who offers a limited health service benefit plan; and

(5) "Limited health service benefit plan" means any policy or certificate that provides services for dental, vision, mental health, substance abuse, chiropractic, pharmaceutical, podiatric, or other such services as may be determined by the commissioner to be offered under a limited health service benefit plan. A limited health service benefit plan shall not include hospital, medical, surgical, or emergency services except as these services are provided incidental to the plan.

SECTION 3. A NEW SECTION OF SUBTITLE 17C OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A health insurer shall not discriminate against any provider who is located within the geographic coverage area of the limited health benefit plan and who is willing to meet the terms and conditions for participation established by the insurer.

SECTION 4. A NEW SECTION OF SUBTITLE 17C OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer shall disclose in writing to a covered person and an insured or enrollee, in a manner consistent with the provisions of KRS 304.14-420 to 304.14-450, the terms and conditions of its limited health service benefit plan and shall promptly provide the covered person and enrollee with written notification of any change in the terms and conditions prior to the effective date of the change. The insurer shall provide the required information at the time of enrollment and upon request thereafter.

(2) The information required to be disclosed under this section shall include a description of:

(a) Covered services and benefits to which the enrollee or other covered person is entitled;

(b) Restrictions or limitations on covered services and benefits;

(c) Financial responsibility of the covered person, including copayments and deductibles;

(d) Prior authorization and any other review requirements with respect to accessing covered services;

(e) Where and in what manner covered services may be obtained;

(f) Changes in covered services or benefits, including any addition, reduction, or elimination of specific services or benefits;

(g) The covered person's right to the following:

1. A utilization review and the procedure for initiating a utilization review, if an insurer elects to provide utilization review; and

2. An internal appeal of a utilization review decision made by or on behalf of the insurer with respect to the denial, reduction, or termination of a limited health service benefit plan or the denial of payment for a health care service, and the procedure to initiate an internal appeal;

(h) Measures in place to ensure the confidentiality of the relationship between an enrollee and a health care provider;

(i) Other information as the commissioner shall require by administrative regulation;

(j) A summary of the drug formulary, including, but not limited to, a listing of the most commonly used drugs, drugs requiring prior authorization, any restrictions, limitations, and procedures for authorization to obtain drugs not on the formulary, and, upon request of an insured or enrollee, a complete drug formulary; and

(k) A statement informing the insured or enrollee that if the provider meets the insurer's enrollment criteria and is willing to meet the terms and conditions for participation, the provider has the right to become a provider for the insurer.

(3) The insurer shall file the information required under this section with the department.

SECTION 5. A NEW SECTION OF SUBTITLE 17C OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer that offers a limited health service benefit plan that utilizes a provider network shall have a provider network that is available to all persons enrolled in the plan within thirty (30) minutes or thirty (30) miles of each enrollee's place of residence or work, to the extent available.

SECTION 6. A NEW SECTION OF SUBTITLE 17C OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Insurers shall establish relevant, objective standards for initial consideration of providers and for providers to continue as a participating provider in the plan. Standards shall be reasonably related to services provided. Selection or participation standards based on the economics or capacity of a provider's practice shall be adjusted to account for case mix, severity of illness, patient age, and other features that may account for higher than expected or lower than expected costs. All data profiling or other data analysis pertaining to participating providers shall be done in a manner which is valid and reasonable. Plans shall not use criteria that would allow an insurer to avoid high-risk populations by excluding providers because they are located in geographic areas that contain populations or providers presenting a risk of higher than average claims, losses, or health services utilization, or that would exclude providers because they treat or specialize in treating populations presenting a risk of higher than average claims, losses, or health services utilization.

(2) Each insurer shall establish mechanisms for soliciting and acting upon applications for provider participation in the plan in a fair and systematic manner. These mechanisms shall, at a minimum, include:

- *(a) Allowing all providers who desire to apply for participation in the plan an opportunity to apply at any time during the year, or, where an insurer does not conduct open continuous provider enrollment, conducting a provider enrollment period at least annually with the date publicized to providers located in the geographic service area of the plan at least thirty (30) days in advance of the enrollment period; and*
- *(b) Making criteria for provider participation in the plan available to all applicants.*

(3) An insurer that offers a limited health service benefit plan shall establish a policy governing the removal of and withdrawal by health care providers from the provider network that includes the following:

- *(a) The insurer shall inform a participating health care provider of the insurer's removal and withdrawal policy at the time the insurer contracts with the health care provider to participate in the provider network, and when changed thereafter;*
- *(b) If a participating health care provider's participation will be terminated or withdrawn prior to the date of the termination of the contract as a result of a professional review action, the insurer and participating health care provider shall comply with the standards in 42 U.S.C. sec. 11112; and*
- *(c) If the insurer finds that a health care provider represents an imminent danger to an individual patient or to the public health, safety, or welfare, the medical director shall promptly notify the appropriate professional state licensing board.*

SECTION 7. A NEW SECTION OF SUBTITLE 17C OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer shall file with the commissioner sample copies of any agreements it enters into with providers for the provision of health care services. The commissioner shall promulgate administrative regulations prescribing the manner and form of the filings required. The agreements shall include the following:

- *(a) A hold harmless clause that states that the provider may not, under any circumstance, including:*
  - *1. Nonpayment of moneys due to providers by the insurer;*
  - *2. Insolvency of the insurer; or*
  - *3. Breach of the agreement,*

  bill, charge, collect a deposit, seek compensation, remuneration, or reimbursement from, or have any recourse against the subscriber, dependent of subscriber, enrollee, or any persons acting on their behalf, for services provided in accordance with the provider agreement. This provision shall not prohibit collection of deductible amounts, copayment amounts, coinsurance amounts, and amounts for noncovered services;
- *(b) A survivorship clause that states the hold harmless clause and continuity of care clause shall survive the termination of the agreement between the provider and the insurer; and*
- *(c) A clause requiring that if a provider enters into any subcontract agreement with another provider to provide health care services to the subscriber, dependent of the subscriber, or enrollee of a limited health service benefit plan, the subcontract agreement must meet all requirements of this subtitle and that all such subcontract agreements shall be filed with the commissioner in accordance with this subsection.*

(2) An insurer that enters into any risk-sharing arrangement or subcontract agreement shall file a copy of the arrangement with the commissioner. The insurer shall also file the following information regarding the risk-sharing

arrangement:

(a) The number of enrollees affected by the risk-sharing arrangement;

(b) The health care services to be provided to an enrollee under the risk-sharing arrangement;

(c) The nature of the financial risk to be shared between the insurer and entity or provider, including, but not limited to, the method of compensation;

(d) Any administrative functions delegated by the insurer to the entity or provider. The insurer shall describe a plan to ensure that the entity or provider will comply with the requirements of this subtitle in exercising any delegated administrative functions; and

(e) The insurer's oversight and compliance plan regarding the standards and method of review.

(3) Nothing in this section shall be construed as requiring an insurer to submit the actual financial information agreed to between the insurer and the entity or provider. The commissioner shall have access to a specific risk-sharing arrangement with an entity or provider upon request to the insurer. Financial information obtained by the department shall be considered to be a trade secret and shall not be subject tot KRS 61.872 to 61.884.

SECTION 8. A NEW SECTION OF SUBTITLE 17C OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer may not contract with a health care provider to limit the provider's disclosure to an enrollee, or to another person on behalf of an enrollee, of any information relating to the enrollee's medical condition or treatment option.

(2) A health care provider shall not be penalized, or a health care provider's contract with a limited health service benefit plan terminated, because the provider discusses medically necessary or appropriate care with an enrollee or another person on behalf of an enrollee.

(a) The health care provider may not be prohibited by the plan from discussing all treatment options with the enrollee.

(b) Other information determined by the health care provider to be in the best interests of the enrollee may be disclosed by the provider to the enrollee or to another person on behalf of an enrollee.

(3) (a) A health care provider shall not be penalized for discussing financial incentives and financial arrangements between the provider and the insurer with an enrollee.

(b) Upon request, an insurer shall inform its enrollees in writing of the type of financial arrangements between the plan and participating providers if those arrangements include an incentive or bonus.

SECTION 9. A NEW SECTION OF SUBTITLE 17C OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Each insurer shall have a process for the selection of health care providers who will be on the plan's list of participating providers, with written policies and procedures for review and approval used by the plan.

(2) The plan shall establish minimum professional requirements for participating health care providers. An insurer may not discriminate against a provider solely on the basis of the provider's license by the state.

(3) The plan shall demonstrate that it has consulted with appropriately qualified health care providers to establish the minimum professional requirements.

(4) The plan's selection process shall include verification of each health care provider's license, history of license suspension or revocation, and liability claims history.

(5) An insurer shall establish a formal written, ongoing process for the reevaluation of each participating health care provider within a specified number of years after the provider's initial acceptance into the plan. The reevaluation shall include an update of the previous review criteria and an assessment of the provider's performance pattern based on criteria such as enrollee clinical outcomes, number of complaints, and malpractice actions.

SECTION 10. SUBTITLE 38A OF KRS CHAPTER 304 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) "Enrollee" means an individual who is enrolled in a limited health services benefit plan;

(2) "Evidence of coverage" means any certificate, agreement, contract, or other document issued to an enrollee stating the limited health services to which the enrollee is entitled. All coverages described in an evidence of coverage issued by a a limited health service organization are deemed to be "limited health services benefit plans" to the extent defined in Section 2 of this Act unless exempted by the commissioner;

(3) "Limited health service" means dental care services, vision care services, mental health services, substance abuse services, chiropractic services, pharmaceutical services, podiatric care services, and such other services as may be determined by the commissioner to be limited health services. Limited health service shall not include hospital, medical, surgical, or emergency services except as these services are provided incidental to the limited health services set forth in this subsection;

(4) "Limited health service contract" means any contract entered into by a limited health service organization with a

policyholder to provide limited health services;

(5) "Limited health service organization" means a corporation, partnership, limited liability company, or other entity that undertakes to provide or arrange limited health service or services to enrollees. A limited health service organization does not include a provider or an entity when providing or arranging for the provision of limited health services under a contract with a limited health service organization, health maintenance organization, or a health insurer; and

(6) "Provider" means the same as defined in KRS 304.17A-005(19).

SECTION 11. A NEW SECTION OF SUBTITLE 38A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No person may operate a limited health service organization in this state without obtaining and maintaining a certificate of authority from the commissioner pursuant to this section and Sections 12, 13, 14, 15, 16, 18, and 20 of this Act, except an insurer authorized to transact health insurance in this state.

SECTION 12. A NEW SECTION OF SUBTITLE 38A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An application for a certificate of authority to operate a limited health service organization shall be filed with the commissioner on a form prescribed by the commissioner. The application shall be verified by an officer or authorized representative of the applicant and shall set forth, or be accompanied by, the following:

(1) A copy of the applicant's basic organizational document, such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents and all amendments to these documents;

(2) A copy of all bylaws, rules, and regulations, or similar documents, if any, regulating the conduct of the applicant's internal affairs;

(3) A list of the names, addresses, official positions, and biographical information of the individuals who are responsible for conducting the applicant's affairs, including, but not limited to, all members of the board of directors, board of trustees, executive committee, or other governing board or committee, the principal officers, and any person or entity owning or having the right to acquire ten percent (10%) or more of the voting securities of the applicant, and the partners or members in the case of a partnership or association. Such listing shall fully disclose the extent and nature of any contracts or arrangements between any individual who is responsible for conducting the applicant's affairs and the limited health service organization, including any possible conflicts of interest;

(4) A complete biographical statement, on forms prescribed by the department, with respect to each individual identified under this section;

(5) A statement generally describing the applicant, its facilities, personnel, and the limited health services to be offered;

(6) A copy of the form of any contract made, or to be made between the applicant and any person listed in subsection (3) of this section;

(7) A copy of the form of any contract made or to be made between the applicant and any person, corporation, partnership, or other entity for the performance on the applicant's behalf of any functions including, but not limited to, marketing, administration, enrollment, investment management and provider agreements, subcontract agreements, and risk-sharing arrangements for the provision of limited health services to enrollees;

(8) A copy of the applicant's most recent financial statements audited by independent certified public accountants. If the financial affairs of the applicant's parent company are audited by independent certified public accountants but those of the applicant are not, then a copy of the most recent audited financial statement of the applicant's parent company, certified by an independent certified public accountant, attached to which shall be consolidated financial statements of the applicant, shall satisfy this requirement unless the commissioner determines that additional or more recent financial information is required for the proper administration of this subtitle;

(9) A copy of the applicant's financial plan, including a three (3) year projection of anticipated operating results with all material assumptions, a statement of the sources of working capital, and any other sources of funding and provisions for contingencies;

(10) A description of the proposed method of marketing;

(11) A statement acknowledging that all lawful process in any legal action or proceeding against the applicant on a cause of action arising in this state is valid if served in accordance with KRS 304.3-230;

(12) A description of how the applicant will comply with Sections 13 and 17 of this Act;

(13) The fee for issuance of a certificate of authority provided in Subtitle 4 of this chapter; and

(14) Such other information as the commissioner may reasonably require to make the determinations required by this subtitle.

SECTION 13. A NEW SECTION OF SUBTITLE 38A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Following receipt of an application filed pursuant to Section 12 of this Act, the commissioner shall review the application and notify the applicant of any deficiencies. The commissioner shall issue a certificate of authority to an

applicant if the following conditions are met:

(a) The applicant has verified to the commissioner that it has an initial minimum worth of at least two hundred fifty thousand dollars ($250,000);

(b) The requirements of Section 12 of this Act have been fulfilled;

(c) The individuals responsible for conducting the applicant's affairs are competent, trustworthy, and possess good reputations, and have had appropriate experience, training, or education;

(d) The applicant is financially responsible and may reasonably be expected to meet its obligations to enrollees and to prospective enrollees. In making his determination, the commissioner may consider:

1. The financial soundness;

2. The adequacy of surplus, working capital, other sources of funding, and provisions for contingencies;

3. Any agreement for paying the cost of the limited health services or for alternative coverage in the event of insolvency of the limited health service organization; and

4. The manner in which the requirements of Section 12 of this Act have been fulfilled; and

(e) Any deficiencies identified by the commissioner have been corrected.

(2) If the certificate of authority is denied, the commissioner shall notify the applicant and shall specify the reasons for denial in the notice. The limited health service organization shall have sixty (60) days from the date of receipt of the notice to request a hearing before the commissioner pursuant to KRS 304.2-310.

(3) Each certificate of authority issued to a limited health service organization shall designate the type of services the limited health service organization is authorized to provide.

SECTION 14. A NEW SECTION OF SUBTITLE 38A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

In order to maintain its eligibility for a certificate of authority, a limited health service organization shall continue to meet all conditions required to be met under this subtitle and the relevant administrative regulations for the initial application for and issuance of its certificate of authority under this subtitle.

SECTION 15. A NEW SECTION OF SUBTITLE 38A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A limited health service organization may add one (1) or more limited health services by :

(a) Filing the relevant information required by Section 12 of this Act;

(b) Demonstrating compliance with Sections 12 and 17 of this Act; and

(c) Obtaining approval from the commissioner prior to offering the additional limited health service.

(2) If the filings are disapproved, the commissioner shall notify the limited health service organization and shall specify the reasons for disapproval in the notice. The limited health service organization shall have sixty (60) days from the date of receipt of the notice to request a hearing before the commissioner pursuant to KRS 304.2-310.

SECTION 16. A NEW SECTION OF SUBTITLE 38A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A limited health service organization shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(1) Subtitle 1--Scope--General Definitions and Provisions;

(2) Subtitle 2--Insurance Commissioner;

(3) Subtitle 3--Authorization of Insurers and General Requirements;

(4) Subtitle 4--Fees and Taxes;

(5) Subtitle 5--Kinds of Insurance--Limits of Risk--Reinsurance;

(6) Subtitle 6--Assets and Liabilities;

(7) Subtitle 7--Investments;

(8) Subtitle 8--Administration of Deposits;

(9) Subtitle 9--Agents, Consultants, Solicitors, and Adjusters;

(10) Subtitle 12--Trade Practices and Frauds;

(11) Subtitle 14--The Insurance Contract;

(12) Subtitle 17--Health Insurance Contracts;

(13) Subtitle 17C--Limited Health Services Benefit Plans;

(14) Subtitle 18--Group and Blanket Health Insurance;

(15) Subtitle 24--Domestic Stock and Mutual Insurers;

(16) Subtitle 25--Continuity of Management;

(17) Subtitle 26--Insider Trading of Equity Securities;

(18) Subtitle 33--Insurers Rehabilitation and Liquidation;

(19) Subtitle 37--Insurance Holding Company Systems;

(20) Subtitle 47--Insurance Fraud; and

(21) Subtitle 99--Penalties.

SECTION 17. A NEW SECTION OF SUBTITLE 38A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Each limited health service organization shall at all times have and maintain a net worth of not less than one hundred twenty-five thousand dollars ($125,000).

(2) (a) Each limited health service organization shall deposit with the commissioner or with any organization or trustee acceptable to the commissioner through which a custodial or controlled account is utilized, cash, securities, or any combination of these or other measures that is acceptable to the commissioner in an amount equal to fifty thousand dollars ($50,000).

(b) The deposit shall be an admitted asset.

(3) A limited health service organization shall at all times comply with the risk-based capital requirements for health organizations in administrative regulations promulgated by the commissioner for health maintenance organizations and other health organizations.

SECTION 18. A NEW SECTION OF SUBTITLE 38A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner may suspend or revoke the certificate of authority issued to a limited health service organization pursuant to this subtitle upon determining that any of the following conditions exist;

(a) The limited health service organization is operating significantly in contravention of its basic organizational document or in a manner contrary to that described in and reasonably inferred from any other information submitted pursuant to Section 12 of this Act, unless amendments to the submissions have been filed with and approved by the commissioner;

(b) The limited health service organization issues an evidence of coverage or schedule of charges for limited health services which does not comply with the requirements of Subtitle 17C of this chapter;

(c) The limited health service organization is unable to fulfill its obligations to furnish limited health services;

(d) The limited health service organization is not financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(e) The net worth of the limited health service organization is less than that required by Section 17 of this Act or the limited health service organization has failed to correct any deficiency in its net worth as required by the commissioner;

(f) The continued operation of the limited health service organization would be hazardous to its enrollees; or

(g) The limited health service organization has otherwise failed to comply with this subtitle.

(2) If the commissioner has cause to believe that grounds for the suspension or revocation of a certificate of authority exist, he or she shall notify the limited health service organization in writing specifically stating the grounds for suspension or revocation and fixing a time not more than sixty (60) days thereafter for a hearing on the matter in accordance with KRS Chapter 13B.

(3) When the certificate of authority of a limited health service organization is revoked, the organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation whatsoever. The commissioner may, by written order, permit such further operation of the organization as he may find to be in the best interest of enrollees, to the end that enrollees will be afforded the greatest practical opportunity to obtain continuing limited health services.

(4) A limited health service organization shall be subject to the provisions of KRS 304.2-210 to 304.2-300 and to the provisions of Subtitle 2 of this chapter for determining financial condition, market conduct, and business practices.

SECTION 19. A NEW SECTION OF SUBTITLE 38A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any limited health service organization that contracts with a provider or provider organization for the transfer of risk to the provider shall take reasonable steps to ensure the transferee is able to accept and manage the risk to be transferred. The limited health service organization shall submit a plan for evaluating a provider's or provider organization's ability to accept and manage risk to the department for approval at least forty-five (45) days prior to the proposed date of the transfer of any risk.

(2) If a limited health service organization transfers risk to a provider:

(a) Not in compliance with the standards listed in its approved plan; or

(b) Prior to filing or receiving approval of its plan,

the commissioner may require the limited health service organization to retain additional reserves to cover the risk transferred.

SECTION 20. A NEW SECTION OF SUBTITLE 38A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A person issued a single service organization certificate of authority in accordance with KRS 304.38-065 and holding the certificate of authority on the effective date of this Act shall be converted to a limited health service organization as defined in Section 10 of this Act. At the next renewal of the certificate of authority, the person shall be issued a certificate of authority to act as a limited health service organization if it meets the requirements for continuance of the certificate of authority. No certificate of authority to act as a single service organization shall be issued or renewed after the effective date of this Act.

(2) A single service organization holding a certificate of authority immediately prior to the effective date of this Act, that is converted to a limited health service organization according to subsection (1) of this section shall continue to be required to meet the minimum net worth requirement of one hundred twenty-five thousand dollars ($125,000), and shall comply with the risk-based capital requirements for health organizations in administrative regulations promulgated by the commissioner for health maintenance organizations and other health organizations.

Section 21. KRS 304.33-430 is amended to read as follows:

The order of distribution of claims from the insurer's estate shall be as stated in this section. The first fifty dollars ($50) of the amount allowed on each claim in the classes under subsections (3) to (7), inclusive, of this section, shall be deducted from the claim and included in the class under subsection (9) of this section. Claims may not be cumulated by assignment to avoid application of the fifty dollars ($50) deductible provision. Subject to the fifty dollars ($50) deductible provision, every claim in each class shall be paid in full or adequate funds retained for the payment before the members of the next class receive any payment. No subclasses shall be established within any class. No claim by a shareholder, policyholder, or other creditor shall be permitted to circumvent the priority classes through the use of equitable remedies.

(1) Administration costs. The costs and expenses of administration, including but not limited to the following: the actual and necessary costs of preserving or recovering the assets of the insurer; compensation for all services rendered in the liquidation; any necessary filing fees; the fees and mileage payable to witnesses; and reasonable attorney's fees.

(2) Health maintenance organization ***and limited health service organization*** out-of-network claims. In a liquidation of a health maintenance organization ***or limited health service organization***, any claims for health plan benefits ***or for limited health service contract benefits*** for out-of-network claims that would have otherwise been covered.

(3) Loss and unearned premium claims. Claims by policyholders, beneficiaries, and insureds arising from and within the coverage of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the company, and liability claims against insureds which claims are within the coverage of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the company, and claims of guaranty associations or foreign guaranty associations. Notwithstanding the foregoing, the following claims shall be excluded from Class 2 priority:

  (a) Obligations of the insolvent insurer arising out of reinsurance contracts;

  (b) Obligations incurred after the expiration date of the insurance policy or after the policy has been replaced by the insured or canceled at the insured's request or after the policy has been canceled as provided in this chapter. Notwithstanding this subsection, earned premium claims on policies, other than reinsurance agreements, shall not be excluded;

  (c) Obligations to insurers, insurance pools, or underwriting associations and their claims for contribution, indemnity or subrogation, equitable or otherwise;

  (d) Any claim which is in excess of any applicable limits provided in the insurance policy issued by the insolvent insurer;

  (e) Any amount accrued as punitive or exemplary damages unless expressly covered under the terms of the policy; and

  (f) Tort claims of any kind against the insurer, and claims against the insurer for bad faith or wrongful settlement practices.

(4) Claims of the federal government other than those claims included in Class 2.

(5) Wages.

  (a) Debts due to employees for services performed, not to exceed one thousand dollars ($1,000) to each employee which have been earned within one (1) year before the filing of the petition for liquidation. Officers shall not be entitled to the benefit of this priority.

  (b) This priority shall be in lieu of any other similar priority authorized by law as to wages or compensation of employees.

(6) Residual classification. All other claims including claims of the federal or any state or local government, not falling within

other classes under this section. Claims, including those of any governmental body, for a penalty or forfeiture, shall be allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims under subsection (9) of this section.

(7) Judgments. Claims based solely on judgments. If a claimant files a claim and bases it both on the judgment and on the underlying facts, the claim shall be considered by the liquidator who shall give the judgment such weight as he deems appropriate. The claim as allowed shall receive the priority it would receive in the absence of the judgment. If the judgment is larger than the allowance on the underlying claim, the remaining portion of the judgment shall be treated as if it were a claim based solely on a judgment.

(8) Interest on claims already paid. Interest at the legal rate compounded annually on all claims in the classes under subsections (1) to (7) of this section, inclusive, from the date of the petition for liquidation or the date on which the claim becomes due, whichever is later, until the date on which the dividend is declared. The liquidator, with the approval of the court may make reasonable classifications of claims for purposes of computing interest, may make approximate computations and may ignore certain classifications and time periods as de minimis.

(9) Miscellaneous subordinated claims. The remaining claims or portions of claims not already paid, with interest as in subsection (8) of this section:

(a) The first fifty dollars ($50) of each claim in the classes under subsections (2) to (7), inclusive, of this section, subordinated under this section;

(b) Claims under subsection (2) of KRS 304.33-380;

(c) Claims subordinated by KRS 304.33-600;

(d) Claims filed late;

(e) Portions of claims subordinated under subsection (6) of this section; and

(f) Claims or portions of claims, payment of which is provided by other benefits or advantages recovered or recoverable by the claimant.

(10) Preferred ownership claims. Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Interest at the legal rate shall be added to each claim, as in subsections (8) and (9) of this section.

(11) Proprietary claims. The claims of shareholders or other owners.

Section 22. KRS 304.38-030 is amended to read as follows:

As used in this subtitle, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of insurance.

(2) "Enrollee" means a person who has been enrolled in a health maintenance organization.

(3)[~~"Full service health maintenance organization" means a health maintenance organization that is authorized to provide all health care services.~~

~~(4)~~] "Evidence of coverage" means any certificate, agreement, contract, or other document issued to an enrollee stating the health care services to which the enrollee is entitled. All coverages described in an evidence of coverage issued by a health maintenance organization are deemed to be "health benefit plans" to the extent defined in KRS 304.17A-005 unless exempted by the commissioner.

(4)[~~(5)~~] "Health care services" means any services included in the furnishing to any individual of medical, optometric or dental care, or hospitalization or incident to the furnishing of such care or hospitalization, as well as the furnishing to any person of any and all other services and goods for the purpose of preventing, alleviating, curing, or healing human illness, physical disability or injury.

[~~(6) "Health discount plan" means:~~

~~(a) A person who provides, for a fee, a list of participating providers who will give the health discount plan's enrollees a specified discount from the provider's regular fees without recourse to the health discount plan;~~

~~(b) A provider, or provider organization that contracts with individuals or groups to provide a specific, predetermined set of routine services to the individual or group over the term of the contract in exchange for a fixed uniform fee paid by the enrollee without recourse to the health discount plan; or~~

~~(c) A combination of paragraphs (a) and (b) of this subsection.~~]

(5)[~~(7)~~] "Health maintenance organization" means any person who undertakes to provide, directly or through arrangements with others, health care services to individuals enrolled with such an organization on a per capita or a predetermined, fixed prepayment basis. ***A health maintenance organization is authorized to provide all health care services***[~~ Unless specifically stated, "health maintenance organization" shall include full service health maintenance organization, and single service organization~~].

(6)[~~(8)~~] "Person" includes, but is not limited to, any individual, partnership, association, trust, or corporation.

(7)[~~(9)~~] "Provider" means a person or group of persons licensed to practice medicine, osteopathy, dentistry, podiatry,

optometry, or another health profession in a state or licensed to act as a hospital or another health care facility.

[~~(10) "Single service organization" means a health maintenance organization that is authorized to provide only one (1) type of health care service, including dental, mental health, optometry, podiatry, vision, or some other single health service. Single service organizations holding a certificate of authority according to this subtitle shall be subject to the provisions of KRS 304.17A-270, 304.17A-505, 304.17A-525, 304.17A-530, 304.17A-590, and 304.17A-545(4).~~]

Section 23. KRS 304.38-035 is amended to read as follows:

No person shall in this state be, act as, or hold himself out as a health maintenance organization unless he holds a certificate of authority as a[~~ full service~~] health maintenance organization[~~, or a single service organization~~] from the commissioner. [~~Health discount plans shall not be required to hold a certificate of authority as a health maintenance organization but shall be required to hold a certificate of filing as defined in KRS 304.38-500.~~]

Section 24. KRS 304.38-060 is amended to read as follows:

Upon receipt of an application for issuance of a certificate of authority, the commissioner shall issue or deny the same. Issuance of a certificate of authority shall be granted only if the commissioner finds that the applicant has complied with KRS 304.38-040, has paid the application fee and the commissioner is satisfied that the following conditions are met:

(1) The persons responsible for the conduct of the affairs of the application are competent, trustworthy, and possess good reputations;

(2) The health maintenance organization is financially responsible and may reasonably be expected to meet its obligations to enrollees and prospective enrollees. In making this determination, the commissioner may consider:

  (a) The financial soundness of the health maintenance organization's arrangements for health care services and the schedule of charges used in connection therewith;

  (b) The adequacy of working capital;

  (c) Any agreement with an insurer, a government, or any other organization for insuring the payment of the cost of health care services or the provision for automatic applicability of an alternative coverage in the event of discontinuance of the health maintenance organization or its inability to meet its financial obligations;

  (d) Examples of any agreements with providers for the provision of health care services by provider type; and

  (e) Compliance with KRS 304.38-070 if the applicant is applying for a[~~ full service~~] health maintenance organization certificate of authority[~~, or compliance with KRS 304.38-077 if the applicant is applying for a single service organization certificate of authority,~~] as a guarantee that the obligations will be duly performed.

Section 25. KRS 304.38-073 is amended to read as follows:

Each[~~ full service~~] health maintenance organization shall furnish to the commissioner a deposit of cash or securities approved by the commissioner in an amount not less than five hundred thousand dollars ($500,000) so that the obligations to the enrollees shall be performed.[~~ Each single service organization shall furnish to the commissioner a deposit of cash or securities approved by the commissioner, in an amount not less than fifty thousand dollars ($50,000) to ensure that the obligations to the enrollees shall be performed.~~] A health maintenance organization may be required to furnish an additional deposit if the commissioner determines, after a hearing, that an additional deposit is necessary for the protection of the health maintenance organization's enrollees.

Section 26. KRS 304.38-191 is amended to read as follows:

Any group policy, group plan or group contract issued, delivered or renewed by a health maintenance organization shall include conversion and continuation rights for certificate holders equal to that provided in KRS 304.18-110 subject to the minimum benefits specified in KRS 304.18-120.[~~ This section shall not apply to single service organizations.~~]

Section 27. KRS 304.38-200 is amended to read as follows:

Health maintenance organizations shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(1) Subtitle 1 -- Scope -- General Definitions and Provisions;

(2) Subtitle 2 -- Insurance Commissioner;

(3) Subtitle 3 -- Authorization of Insurers and General Requirements;

(4) Subtitle 4 -- Fees and Taxes;

(5) Subtitle 5 -- Kinds of Insurance -- Limits of Risk -- Reinsurance;

(6) Subtitle 6 -- Assets and Liabilities;

(7) Subtitle 7 -- Investments;

(8) Subtitle 8 -- Administration of Deposits;

(9) Subtitle 9 -- Agents, Consultants, Solicitors, and Adjusters;

(10) Subtitle 12 -- Trade Practices and Frauds;

(11) Subtitle 14 -- The Insurance Contract;

(12) Subtitle 17 -- Health Insurance Contracts;

(13) Subtitle 17A -- Health Benefit Plans;

(14) Subtitle 17B -- Kentucky Access;

(15) ***Subtitle 17C--Limited Health Services Benefit Plans;***

(16) Subtitle 18 -- Group and Blanket Health Insurance;

(17)[~~(16)~~] Subtitle 24 -- Domestic Stock and Mutual Insurers;

(18)[~~(17)~~] Subtitle 25 -- Continuity of Management;

(19)[~~(18)~~] Subtitle 26 -- Insider Trading of Equity Securities;

(20)[~~(19)~~] Subtitle 33 -- Insurers Rehabilitation and Liquidation;

(21)[~~(20)~~] Subtitle 37 -- Insurance Holding Company Systems;[~~ and~~]

(22)[~~(21)~~] ***Subtitle 47--Insurance Fraud; and***

(23) Subtitle 99 -- Penalties.

Section 28. KRS 304.42-050 is amended to read as follows:

As used in this subtitle:

(1) "Account" means either of the three (3) accounts created under KRS 304.42-060.

(2) "Association" means the Kentucky Life and Health Insurance Guaranty Association created under KRS 304.42-060.

(3) "Authorized assessment" or the term "authorized" when used in the context of assessments means a resolution by the board of directors has been passed whereby an assessment will be called immediately or in the future from member insurers for a specific amount. An assessment is authorized when the resolution is passed.

(4) "Benefit plan" means a specific employee, union, or association of natural persons benefit plan.

(5) "Called assessment" or the term "called" when used in the context of assessments means that a notice has been issued by the association to member insurers requiring that an authorized assessment be paid within the time frame set forth within the notice. An authorized assessment becomes a called assessment when notice is mailed by the association to member insurers.

(6) "Commissioner" means the commissioner of insurance of this state.

(7) "Contractual obligation" means any obligation under a policy or contract or a certificate under a group policy or contract, or portion thereof, for which coverage is provided under KRS 304.42-030.

(8) "Covered policy" means any policy or contract or portion of a policy or contract for which coverage is provided under KRS 304.42-030.

(9) "Extracontractual claims" include, but are not limited to, claims relating to bad faith in the payment of claims, punitive or exemplary damages, and attorneys' fees and costs.

(10) "Impaired insurer" means a member insurer which, after June 17, 1978, is not an insolvent insurer and is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

(11) "Insolvent insurer" means a member insurer which after June 17, 1978, is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency.

(12) "Member insurer" means any insurer authorized to transact in this state any kind of insurance for which coverage is provided under KRS 304.42-030, and includes any insurer whose certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn, but does not include:

 (a) A nonprofit hospital, medical-surgical, dental, and health service corporation, as defined by Subtitle 32 of this chapter;

 (b) A health maintenance organization;

 (c) A fraternal benefit society;

 (d) A mandatory state pooling plan;

 (e) An assessment or cooperative insurer or any entity that operates on an assessment basis;

 (f) An insurance exchange;

 (g) Any entity similar to the above;[~~ or~~]

 (h) Health insurance where such insurance is written by a member of the Kentucky Insurance Guaranty Association***; or***

 (i) A limited health service organization.

(13) "Moody's corporate bond yield average" means the monthly average corporates as published by Moody's Investors Service, Inc., or any successor thereto.

(14) "Owner" of a policy or contract and "policy owner" and "contract owner" mean the person who is identified as the legal owner under the terms of the policy or contract or who is otherwise vested with legal title to the policy or contract through a valid assignment completed in accordance with the terms of the policy or contract and properly recorded as the owner on

the books of the insurer. The terms "owner," "contract owner," and "policy owner" do not include persons with a mere beneficial interest in a policy or contract.

(15) "Premiums" means amounts or considerations, by whatever name called, received on covered policies or contracts less returned premiums, considerations, and deposits, and less dividends and experience credits. "Premiums" does not include amounts or considerations received for any policies or contracts or for the portions of policies or contracts for which coverage is not provided under KRS 304.42-030(2), except that assessable premium shall not be reduced on account of KRS 304.42-030(2)(b)3. Relative to interest limitations and KRS 304.42-030(3)(b) relating to limitations with respect to one (1) individual and one (1) contract owner. "Premiums" shall not include with respect to multiple nongroup policies of life insurance owned by one (1) owner, whether the policy owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, premiums in excess of one million dollars ($1,000,000) with respect to these policies or contracts, regardless of the number of policies or contracts held by the owner.

(16) "Person" means any individual, corporation, limited liability company, partnership, association, governmental body or entity, or voluntary organization.

(17) "Plan sponsor" means:

(a) The employer in the case of a benefit plan established or maintained by a single employer;

(b) The employee organization in the case of a benefit plan established or maintained by an employee organization; or

(c) In a case of a benefit plan established or maintained by two (2) or more employers or jointly by one (1) or more employers and one (1) or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan.

(18) (a) "Principal place of business" of a plan sponsor or a person other than a natural person means the single state in which the natural persons who establish policy for the direction, control, and coordination of the operations of the entity as a whole primarily exercise the function, determined by the association in its reasonable judgment by considering the following factors:

1. The state in which the primary executive and administrative headquarters of the entity is located;

2. The state in which the principal office of the chief executive officer of the entity is located;

3. The state in which the board of directors or similar governing person or persons of the entity conducts the majority of its meetings;

4. The state in which the executive or management committee of the board of directors or similar governing person or persons of the entity conducts the majority of its meetings;

5. The state from which the management of the overall operations of the entity is directed; and

6. In the case of a benefit plan sponsored by affiliated companies comprising a consolidated corporation, the state in which the holding company or controlling affiliate has its principal place of business as determined using the above factors.

However, in the case of a plan sponsor, if more than fifty percent (50%) of the participants in the benefit plan are employed in a single state, that state shall be deemed to be the principal place of business of the plan sponsor.

(b) The principal place of business of a plan sponsor of a benefit plan described in subsection (17)(c) of this section shall be deemed to be the principal place of business of the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan that, in lieu of a specific or clear designation of a principal place of business, shall be deemed to be the principal place of business of the employer or employee organization that has the largest investment in the benefit plan or question.

(19) "Receivership court" means the court in the insolvent or impaired insurer's state having jurisdiction over the conservation, rehabilitation, or liquidation of the insurer.

(20) "Resident" means any person to whom a contractual obligation is owed and who resides in this state on the date when a member insurer is determined to be an impaired or insolvent insurer, whichever occurs first. A person may be a resident of only one (1) state, which in the case of a person other than a natural person shall be its principal place of business. Citizens of the United States that are either residents of foreign countries or residents of United States possessions, territories, or protectorates that do not have an association similar to the association created by this subtitle shall be deemed residents of the state of domicile of the insurer that issued the policies or contracts.

(21) "Structured settlement annuity" means an annuity purchased in order to fund periodic payments for a plaintiff or other claimant in payment for or with respect to personal injury suffered by the plaintiff or other claimant.

(22) "State" means a state, the District of Columbia, Puerto Rico, and a United States possession, territory, or protectorate.

(23) "Supplemental contract" means a written agreement entered into for the distribution of proceeds under a life, health, or annuity policy or contract.

(24) "Unallocated annuity contract" means any annuity contract or group annuity certificate which is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by an insurer under such contract

or certificate.

SECTION 29. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "health discount plan" means any card, program, device, or mechanism that is not insurance that purports to offer discounts or access to discounts from a health care provider without recourse to the health discount plan.

(2) No person shall sell, market, promote, advertise, or otherwise distribute a health discount plan unless:

(a) The health discount plan clearly states in bold and prominent type on all cards or other purchasing devices, promotional materials, and advertising that the discounts are not insurance;

(b) The discounts are specifically authorized by an individual and separate contract with each health care provider listed in conjunction with the health discount plan; and

(c) The discounts or the range of discounts advertised or offered by the plan are clearly and conspicuously disclosed to the consumer.

(3) The provisions of Subsection (2) do not apply to the following:

(a) A customer discount or membership card issued by a retailer for use in its own facility; or

(b) Any card, program, device, or mechanism that is not insurance and which is administered by a health insurer authorized to transact the business of insurance in this state.

(4) A violation of this section shall be deemed an unfair, false, misleading, or deceptive act or practice in the conduct of trade or commerce in violation of KRS 367.170. All of the remedies, powers, and duties delegated to the Attorney General by KRS 367.190 to 367.300 and penalties pertaining to acts and practices declared unlawful under KRS 367.170 shall be applied to acts and practices in violation of this section.

Section 30. KRS 304.33-020 is amended to read as follows:

The proceedings authorized by this subtitle may be applied to:

(1) All domestic insurers, whether or not they purport to do business in this state;

(2) All insurers who are doing, or have done, an insurance business in this state, and against whom claims arising from that business may exist now or in the future;

(3) All insurers who purport to do an insurance business in this state;

(4) All insurers who have insureds resident in this state;

(5) All other persons organized or in the process of organizing with the intent to do an insurance business in this state;

(6) All fraternal benefit societies as defined in Subtitle 29;

(7) All nonprofit hospital, medical-surgical, dental, and health service corporations, as defined in Subtitle 32;

(8) All health maintenance organizations as defined in Subtitle 38; and

(9) *All limited health service organizations as defined in Section 10 of this Act*[~~Prepaid dental plan organizations as defined in KRS 304.43-010(6)~~].

Section 31. KRS 304.12-013 is amended to read as follows:

(1) The purpose of this section is to prohibit unfair or deceptive practices in the transaction of life and health insurance with respect to the human immunodeficiency virus infection and related matters. This section applies to all life and health insurance contracts which are delivered or issued for delivery in Kentucky on or after July 13, 1990.

(2) This section shall not prohibit an insurer from contesting the validity of an insurance contract or whether a claim is covered under an insurance contract to the extent allowed by law.

(3) As used in this section:

(a) "Human immunodeficiency virus" (HIV) means the causative agent of acquired immunodeficiency syndrome (AIDS) or any other type of immunosuppression caused by the human immunodeficiency virus.

(b) "Insurance contract" means a contract issued by an insurer as defined in this section; and

(c) "Insurer" means an insurer, a nonprofit hospital, medical-surgical, dental, and health service corporation, a health maintenance organization, or a prepaid dental plan organization.

(4) (a) In the underwriting of an insurance contract regarding human immunodeficiency virus infection and health conditions derived from such infection, the insurer shall utilize medical tests which are reliable predictors of risk. Only a test which is recommended by the Centers for Disease Control or by the Food and Drug Administration is deemed to be reliable for the purposes of this section. If a specific Centers for Disease Control or Food and Drug Administration-recommended test indicates the existence or possible existence of human immunodeficiency virus infection or a health condition related to the human immunodeficiency virus infection, before relying on a single test to deny issuance of an insurance contract, limit coverage under an insurance contract, or to establish the premium for an insurance contract, the insurer shall follow the applicable Centers for Disease Control or Food and Drug Administration-recommended test protocol and shall utilize any applicable Centers for Disease Control or

Food and Drug Administration-recommended follow-up tests or series of tests to confirm the indication.

(b) Prior to testing, the insurer shall disclose in writing its intent to test the applicant for the human immunodeficiency virus infection or for a specific health condition derived therefrom and shall obtain the applicant's written informed consent to administer the test. Written informed consent shall include a fair explanation of the test, including its purpose, potential uses and limitations, the meaning of its results, and the right to confidential treatment of information. Use of a form prescribed by the department shall raise a conclusive presumption of informed consent.

(c) An applicant shall be notified of a positive test result by a physician designated by the applicant, or, in the absence of such designation, by the Cabinet for Health Services. The notification shall include:

1. Face-to-face post-test counseling on the meaning of the test results, the possible need for additional testing, and the need to eliminate behavior which might spread the disease to others;

2. The availability in the geographic area of any appropriate health-care services, including mental health care, and appropriate social and support services;

3. The benefits of locating and counseling any person by whom the infected person may have been exposed to human immunodeficiency virus and any person whom the infected person may have exposed to the virus; and

4. The availability, if any, of the services of public health authorities with respect to locating and counseling any person described in subparagraph 3. of this paragraph.

(d) A medical test for human immunodeficiency virus infection or for a health condition derived from the infection shall only be required or given to an applicant for an insurance contract on the basis of the applicant's health condition or health history, on the basis of the amount of insurance applied for, or if the test is required of all applicants.

(e) An insurer may ask whether an applicant for an insurance contract has been tested positive for human immunodeficiency virus infection or other health conditions derived from such infection. Insurers shall not inquire whether the applicant has been tested for or has received a negative result from a specific test for human immunodeficiency virus infection or for a health condition derived from such infection.

(f) Insurers shall maintain strict confidentiality of the results of tests for human immunodeficiency virus infection or a specific health condition derived from human immunodeficiency virus infection. Information regarding specific test results shall be disclosed only as required by law or pursuant to a written request or authorization by the applicant. Insurers may disclose results pursuant to a specific written request only to the following persons:

1. The applicant;

2. A licensed physician or other person designated by the applicant;

3. An insurance medical-information exchange under procedures that are used to assure confidentiality, such as the use of general codes that also cover results of tests for other diseases or conditions not related to human immunodeficiency virus infection;

4. For the preparation of statistical reports that do not disclose the identity of any particular applicant;

5. Reinsurers, contractually retained medical personnel, and insurer affiliates if these entities are involved solely in the underwriting process and under procedures that are designed to assure confidentiality;

6. To insurer personnel who have the responsibility to make underwriting decisions; and

7. To outside legal counsel who needs the information to represent the insurer effectively in regard to matters concerning the applicant.

(g) Insurers shall use for the processing of human immunodeficiency virus-related tests only those laboratories that are certified by the United States Department of Health and Human Services under the Clinical Laboratory Improvement Act of 1967, which permit testing of specimens in interstate commerce, and which subject themselves to ongoing proficiency testing by the College of American Pathologists, the American Association of Bioanalysts, or an equivalent program approved by the Centers for Disease Control.

(5) (a) An insurance contract shall not exclude coverage for human immunodeficiency virus infection. An insurance contract shall not contain benefit provisions, terms, or conditions which apply to human immunodeficiency virus infection in a different manner than those which apply to any other health condition. Insurance contracts which violate this paragraph shall be disapproved by the commissioner pursuant to KRS 304.14-130(1)(a), 304.32-160, ***and*** 304.38-050[~~, and 304.43-030~~].

(b) A health insurance contract shall not be canceled or nonrenewed solely because a person or persons covered by the contract has been diagnosed as having or has been treated for human immunodeficiency virus infection.

(c) Sexual orientation shall not be used in the underwriting process or in the determination of which applicants shall be tested for exposure to the human immunodeficiency virus infection. Neither the marital status, the living arrangements, the occupation, the gender, the beneficiary designation, nor the zip code or other territorial classification of an applicant's sexual orientation.

(d) This subsection does not prohibit the issuance of accident only or specified disease insurance contracts.

Section 32. KRS 304.38-040 is amended to read as follows:

(1) A corporation, limited liability corporation, or partnership may apply to the commissioner for and obtain a certificate of authority to establish and operate a health maintenance organization in compliance with this subtitle.

(2) Health maintenance organizations which are corporations may be organized by applying the provisions of KRS Chapter 271B, if for profit, and KRS Chapter 273, if for nonstock, nonprofit, to the extent that the same are not inconsistent with the express provisions of this subtitle.

(3) Each application for a certificate of authority shall be submitted to the commissioner upon a form prescribed by him and shall set forth or be accompanied by:

(a) Evidence that the applicant has been issued a certificate of need in accordance with the provisions of KRS Chapter 216B, or evidence that no certificate of need is required by KRS Chapter 216B;

(b) Articles of incorporation or partnership agreement in quadruplicate originals acknowledged and verified by the applicant, such as the articles of incorporation, articles of association, partnership agreement, or other applicable documents;

(c) The initial bylaws of the organization in triplicate (or any other similar documents);

(d) A statement which shall include describing the health maintenance organization:

1. The health services to be offered;
2. The financial risks to be assumed;
3. The initial geographic area to be served;
4. Pro forma financial projections for the first three (3) years of operations including the assumptions the projections are based upon;
5. The sources of working capital and funding;
6. A description of the persons to be covered by the health maintenance organization;
7. Any proposed reinsurance arrangements;
8. Any proposed management, administrative, or cost-sharing arrangements; and
9. A description of the health maintenance organization's proposed method of marketing;

(e) The names, addresses, and positions of the initial board of directors, board of trustees, or other governing body responsible for the conduct of the affairs of the applicant;

(f) Any proposed evidence of coverage to be issued by the applicant to individuals, enrollees, groups, or other contract holders; and

(g) Evidence of financial responsibility as provided in KRS 304.38-060~~[or 304.38-077]~~.

Section 33. KRS 304.1-120 is amended to read as follows:

No provision of this code shall apply to:

(1) Fraternal benefit societies (as identified in Subtitle 29), except as stated in Subtitle 29.

(2) Nonprofit hospital, medical-surgical, dental, and health service corporations (as identified in Subtitle 32) except as stated in Subtitle 32.

(3) Burial associations (as identified in KRS Chapter 303), except as stated in Subtitle 31.

(4) Assessment or cooperative insurers (as identified in KRS Chapter 299), except as stated in KRS Chapter 299.

(5) Insurance premium finance companies (as identified in Subtitle 30), except as stated in Subtitle 30.

(6) Qualified organizations which issue charitable gift annuities within the Commonwealth of Kentucky. For the purposes of this subsection:

(a) A "qualified organization" means one which is:

1. Exempt from taxation under Section 501(c)(3) of the Internal Revenue Code as a charitable organization, if it files a copy of federal form 990 with the Division of Consumer Protection in the Office of the Attorney General; or
2. Exempt from taxation under Section 501(c)(3) of the Internal Revenue Code as a religious organization; or
3. Exempt as a publicly-owned or nonprofit, privately-endowed educational institution approved or licensed by the State Board of Education, the Southern Association of Colleges and Schools, or an equivalent public authority of the jurisdiction where the institution is located; and

(b) A "charitable gift annuity" means a giving plan or method by which a gift of cash or other property is made to a qualified organization in exchange for its agreement to pay an annuity.

(7) A religious publication (as identified in this subsection), or its subscribers, that limit their operations to those activities

permitted by this subsection; and:

(a) Is a nonprofit religious organization;

(b) Is limited to subscribers who are members of the same denomination or religion;

(c) Acts as an organizational clearinghouse for information between subscribers who have financial, physical, or medical needs and subscribers who choose to assist with those needs, matching subscribers with the present ability to pay with subscribers with a present financial or medical need;

(d) Pays for the subscribers' financial or medical needs by payments directly from one (1) subscriber to another;

(e) Suggests amounts to give that are voluntary among the subscribers, with no assumption of risk or promise to pay either among the subscribers or between the subscribers and the publication; and

(f) Provides the following verbatim written disclaimer as a separate cover sheet for all documents distributed by or on behalf of the exempt entity, including all applications, guidelines, promotional or informational materials, and all periodic publications:

"This publication is not issued by an insurance company nor is it offered through an insurance company. This publication does not guarantee or promise that your medical bills will be published or assigned to others for payment.

Whether anyone chooses to pay your medical bills will be totally voluntary. This publication should never be considered as a substitute for an insurance policy.

Whether you receive any payments for medical expenses, and whether or not this publication continues to operate, you will always remain liable for any unpaid bills."

(8) A public or private ambulance service licensed and regulated by the Cabinet for Health Services to the extent that it solicits membership subscriptions, accepts membership applications, charges membership fees, and furnishes prepaid or discounted ambulance services to subscription members and designated members of their households.

Section 34. The following KRS sections are repealed:

304.43-010	Definitions.
304.43-020	Application for certificate of authority -- Continuance of existing organization.
304.43-030	Filing and approval of forms.
304.43-040	Issuance of certificate of authority.
304.43-050	Deposit.
304.43-060	Contract or certificate of services.
304.43-070	Annual and quarterly statements.
304.43-080	Agents -- Registration and licensing.
304.43-085	Coordination of benefits.
304.43-090	Examination of affairs of organization -- Report, confidentiality.
304.43-100	Suspension or revocation of certificate of authority.
304.43-110	Rehabilitation or liquidation.
304.43-120	Fees.
304.43-130	Advertisements or solicitation -- Cancellation of enrollee's coverage -- Applicability of Subtitle 12.
304.43-140	Conversion of prepaid dental plans to single service organization or health discount plan -- Reissuance of certificate of authority -- Net worth and risk-based capital requirements.
304.43-150	Filing of premium rates and classification of risks -- Commissioner's approval of filings required.
304.38-065	Certificate of authority to designate type of services authorized.
304.38-077	Single service organization -- Net worth and risk-based capital requirements.
304.38-500	Certificate of filing required for health discount plan -- Application and evidence of coverage requirements.
304.38-505	Plan disclosure requirements.
304.38-510	Suspension or revocation of certificate of filing -- Conditions -- Effect.

SB 152, AN ACT relating to health insurance coverage for hearing aids and related services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Hearing aid" means any wearable, nondisposable instrument or device designed to aid or compensate for impaired human hearing and any parts, attachments, or accessories, including earmolds, but excluding batteries and cords; and

(b) "Related services" means those services necessary to assess, select, and appropriately adjust or fit the hearing aid to ensure optimal performance.

(2) A health benefit plan shall provide coverage, subject to all applicable copayments, coinsurance, deductibles, and out-of-pocket limits, for the full cost of one (1) hearing aid per hearing impaired ear up to one thousand four hundred dollars ($1,400) every thirty-six (36) months for hearing aids for insured individuals under eighteen (18) years of age and all related services which shall be prescribed by an audiologist licensed under KRS Chapter 334A and dispensed by an audiologist or hearing instrument specialist licensed under KRS Chapter 334. The insured may choose a higher priced hearing aid and may pay the difference in cost above the one thousand four hundred dollar ($1,400) limit as provided in this section without any financial or contractual penalty to the insured or to the provider of the hearing aid.

(3) A health benefit plan shall not be required to pay a claim filed by its insured for payment of the cost of a hearing aid under the coverage required by subsection (2) of this section if less than three (3) years prior to the date of the claim its insured filed a claim for payment of the cost of a hearing aid under the required coverage and the claim was paid by any health benefit plan.

Section 2. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall include a person, including an elected public official, who is regularly employed by any department, board, agency, branch of state government, or any municipal, urban-county, charter county, or county government, whose legislative body has opted to participate in the state health insurance program pursuant to KRS 79.080 and who is a contributing member to any one (1) of the retirement systems administered by the state. It shall also include a person who must fulfill the requirements established by the Kentucky Board of Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems and includes members of the Legislators' Retirement Plan as provided in KRS 18A.2287. It shall also include a person who is a present or future recipient of a retirement allowance from the Teachers' Retirement System of Kentucky who either satisfies the requirements of KRS 161.525, 161.620, and 161.675 or who is board certified, including a beneficiary of a retired member who is receiving a retirement allowance from the Teachers' Retirement System of Kentucky, except that a member who is receiving a retirement allowance from the Teachers' Retirement System and who is age sixty-five (65) or older shall not be included.

(2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health care coverage including, but not limited to, indemnity, health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of state employees. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994. All state employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the state or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment. For calendar year 2001 only, an emergency shall exist when any county in which only one (1) health insurance company offers a single plan to state employees and, subsequent to the open enrollment period, the health insurance company fails to maintain at least sixty-five percent (65%) of its contracts within the geographic region with specialty physicians who were participating in the network at the time of open enrollment. The Finance and Administration Cabinet shall immediately notify the Governor, the Legislative Research Commission, and the secretary of the Personnel Cabinet and shall be authorized to immediately negotiate and contract with additional health insurance companies for additional plans to serve any county without meeting the requirements of the Model Procurement Code under KRS Chapter 45.

(b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws.

(c) Any carrier bidding to offer health care coverage to members of the state group shall agree to provide coverage to all members of the state group, including both active employees and retirees within the county or counties specified in its bid. Furthermore, any carrier bidding to offer health care coverage to members of the state group shall also agree to rate all such members of the state group as a single entity, except for those retirees whose former employers insure their active employees outside the state health insurance program.

(d) Any carrier bidding to offer health care coverage to any member of the state group shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance of data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual member; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.

(e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall provide to the General Assembly in June of each year an analysis of enrollment, claims, utilization data of all carriers for the prior plan year ending December 31, and on the financial stability of the program. The report shall include, but not be limited to, loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, paid dependent coverage, and statutorially required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including, but not limited to, loss ratios, reserves, and reinsurance agreements.

(f) If any agency participating in the state employee health insurance program for its active members terminates participation in the state employee health insurance program for its active members and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, neither the agency nor the employees shall receive the state-funded contribution after termination from the state employee health insurance program.

(g) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state health insurance plan's appropriation account.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, may procure from one (1) or more dental insurance companies, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under Subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government; or

(c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government for any other health care coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a managed health care plan or of a prepaid dental plan, under which he has elected coverage, into either the service area of another managed health care plan or prepaid dental plan or into an area of the state not within a managed health care plan service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health care plan or dental plan.

(6) No payment of premium by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and other provisions the commissioner of insurance may approve.

(8) The policy or policies shall contain the provision that employees or retired employees shall be allowed to change health care plans during the reopening period without any limitation for pre-existing conditions if the employee has met the pre-existing condition limitation upon initial employment or reemployment with the group.

(9) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining health care coverage and dental coverage under the provisions of this section.

(10) Group rates under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(11) The health care contract or contracts for state employees shall be entered into for a period of not less than one (1) year.

(12) The secretary shall appoint twenty-eight (28) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state health insurance program for state employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.

(13) Notwithstanding any other provision of law to the contrary, the policy or policies provided to state employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of state employees or their dependents.

(14) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Personnel Cabinet, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.

(15) The policy or policies provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining a hearing aid and acquiring hearing aid related services for insured individuals under eighteen (18) years of age, subject to a cap of one thousand four hundred dollars ($1,400) every thirty-six (36) months.

SB 187, AN ACT relating to insurance premium surcharges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 136.392 is amended to read as follows:

(1) (a) Every domestic, foreign, or alien insurer, other than life and health insurers, which is either subject to or exempted from Kentucky premium taxes as levied pursuant to the provisions of either KRS 136.340, 136.350, 136.370, or 136.390, shall charge and collect a surcharge of one dollar and fifty cents ($1.50) upon each one hundred dollars ($100) of premium, assessments, or other charges, except for those municipal premium taxes, made by it for insurance coverage provided to its policyholders, on risk located in this state, whether the charges are designated as premiums, assessments, or otherwise. The premium surcharge shall be collected by the insurer from its policyholders at the same time and in the same manner that its premium or other charge for the insurance coverage is collected. The premium surcharge shall be disclosed to policyholders pursuant to administrative regulations promulgated by the commissioner of insurance. However, no insurer or its agent shall be entitled to any portion of any premium surcharge as a fee or commission for its collection. On or before the twentieth day of each month, each insurer shall report and remit to the Revenue Cabinet, on forms as it may require, all premium surcharge moneys collected by it during its preceding monthly accounting period less any moneys returned to policyholders as applicable to the unearned portion of the premium on policies terminated by either the insured or the insurer. Insurers with an annual liability of less than one thousand dollars ($1,000) for each of the previous two (2) calendar years may report and remit to the Revenue Cabinet all premium surcharge moneys collected on a calendar year basis on or before the twentieth (20th) day of January of the following calendar year. The funds derived from the premium surcharge shall be deposited in the State Treasury, and shall constitute a fund allocated for the uses and purposes of the Firefighters Foundation Program fund (KRS 95A.220 and 95A.262) and the Law Enforcement Foundation Program fund (KRS 15.430).

(b) Effective July 1, 1992, the surcharge rate in paragraph (a) of this subsection shall be adjusted by the secretary of revenue to a rate calculated to provide sufficient funds for the uses and purposes of the Firefighters Foundation Program fund as prescribed by KRS 95A.220 and 95A.262 and the Law Enforcement Foundation Program fund as prescribed by KRS 15.430 for each fiscal year. The rate shall be calculated using as its base the number of local government units eligible for participation in the funds under applicable statutes as of January 1, 1994. To allow the secretary of revenue to calculate an appropriate rate, the secretary for the Public Protection and Regulation Cabinet and the secretary for the Justice Cabinet shall certify to the secretary of revenue, no later than January 1, of each year, the estimated budgets for the respective funds specified above, including any surplus moneys in the funds, which shall be incorporated into the consideration of the adjusted rate for the next biennium. As soon as practical, the secretary of revenue shall advise the commissioner of insurance of the new rate and the commissioner shall inform the affected insurers. The rate adjustment process shall continue on a biennial basis.

(2) Within five (5) days after the end of each month, all insurance premium surcharge proceeds deposited in the State Treasury as set forth in this section shall be paid by the State Treasurer into the Firefighters Foundation Program fund trust and agency account and the Law Enforcement Foundation Program fund trust and agency account. The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to KRS 42.190. Moneys deposited to the Law Enforcement Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered or transferred by any state official for uses and purposes other than those prescribed by KRS 15.410 to 15.500, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse. On and after July 1, 1999, moneys in this account shall not lapse. Money deposited to the Firefighters Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 95A.200 to 95A.300, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse; but moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. On and after July 1, 1999, moneys in this account shall not lapse.

(3) Insurance premium surcharge funds collected from the policyholders of any domestic mutual company, cooperative, or assessment fire insurance company shall be deposited in the State Treasury, and shall be paid monthly by the State Treasurer into the Firefighters Foundation Program fund trust and agency account as provided in KRS 95A.220 to 95A.262. However, insurance premium surcharge funds collected from policyholders of any mutual company, cooperative, or assessment fire insurance company which transfers its corporate domicile to this state from another state after July 15, 1994, shall continue to be paid into the Firefighters Foundation Program fund and the Law Enforcement Foundation Program fund as prescribed.

(4) No later than July 1 of each year, the Department of Insurance shall provide the Revenue Cabinet with a list of all Kentucky-licensed property and casualty insurers and the amount of premium volume collected by the insurer for the preceding calendar year as set forth on the annual statement of the insurer. No later than September 1 of each year, the Revenue Cabinet shall calculate an estimate of the premium surcharge due from each insurer subject to the insurance premium surcharge imposed pursuant to this section, based upon the surcharge rate imposed pursuant to this section and the amount of the premium volume for each insurer as reported by the Department of Insurance. The Revenue Cabinet shall compare the results of this estimate with the premium surcharge paid by each insurer during the preceding year, and shall provide the Legislative Research Commission, the Commission on Fire Protection Personnel Standards and Education, the Kentucky Law Enforcement Council, and the Department of Insurance with a report detailing its findings on a cumulative basis. In accordance with KRS 131.190, the cabinet shall not identify or divulge the confidential tax information of any individual insurer in this report.

SCR 34, A CONCURRENT RESOLUTION directing the Interim Joint Committee on Banking and Insurance to study the feasibility of self-funding at least one health insurance option for state employees.

WHEREAS, according to the Kentucky Public Employee Health Insurance Program Annual Report, 72% of other states self-fund at least one of their health insurance options; and

WHEREAS, administration expenses under a self-funded health insurance plan are typically lower due to the elimination of insurer risk charges which are normally 2% to 5% of total premiums; and

WHEREAS, through direct contracting a self-funded program may have more negotiation flexibility with providers; and

WHEREAS, a self-funded program typically has more design flexibility which may result in more consistency in the benefit options offered to plan participants in different geographic areas of the Commonwealth; and

WHEREAS, under a self-funded arrangement the Commonwealth could consolidate its risk pool and have increased flexibility in allocating its health care program's costs;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That the Interim Joint Committee on Banking and Insurance is directed to study the feasibility of self-funding at least one health insurance option for state employees.

Section 2. The Personnel Cabinet shall cooperate with the Interim Joint Committee on Banking and Insurance in executing and completing this study.

Section 3. That the Interim Joint Committee on Banking and Insurance shall report its findings to the Legislative Research Commission no later than December 1, 2002.

Section 4. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Licensing and Occupations reported **HB 768, SB 139,** and **SB 230** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 768, AN ACT relating to electronic gaming with related payments to the state and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 230A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds and declares that:

(1) In authorizing electronic gaming as described in this chapter, it is the purpose and intent of the General Assembly to:

(a) Provide non-state-supported financial assistance to Kentucky's horse racing and breeding industry in the form of new revenues generated by the operation of electronic gaming devices, which will enable the industry to create new jobs, encourage investment, and promote excellence in racing through higher purses for horsemen, renovation, and modernization of the state's aging racetracks; and

(b) Restrict the operation of electronic gaming devices to the state's existing racetracks where wagering is already permitted and the requisite controls exist.

(2) The operation of electronic gaming devices as described in this chapter will generate substantial new revenue for state government so that state government can better serve the needs of the citizens of this state;

(3) The horse racing industry in Kentucky provides a valuable tourism resource for the Commonwealth and provides significant economic benefits to the citizens of this state through the provisions of jobs and the generation of state revenues;

(4) This valuable tourism resource is facing serious economic harm from competition resulting from increased gaming opportunities in neighboring states, including riverboat casinos and video lottery gaming. The operation of electronic gaming devices at certain facilities in this state would allow the racing industry to more effectively compete with out-of-state gaming to keep racing viable and protect the substantial economic contribution the racing industry makes to the Commonwealth;

(5) The General Assembly recognizes the need to protect the public against a statewide proliferation of gaming;

(6) The racing industry currently operates in limited areas of the Commonwealth where pari-mutuel wagering has been accepted, and the operation of additional gaming options exclusively at existing racetracks would not conflict with established community moral standards;

(7) The playing of electronic gaming devices as described in this chapter will be limited to persons twenty-one (21) years or older;

(8) The Gaming Commission created by this chapter will provide the expertise necessary to oversee the operation of electronic gaming devices in an efficient and effective manner;

(9) The racing industry has extensive experience and expertise in the management of gaming activities, which assures that electronic gaming devices will be operated with honesty and integrity;

(10) To create and maintain public confidence and trust in the integrity of electronic gaming device gaming, the regulatory provisions of this chapter are designed to extend strict regulation by the Gaming Commission to all persons involved in the operation of electronic gaming devices and the manufacturers and distributors of electronic gaming devices and associated equipment; and

(11) The racing industry has extensive experience and expertise in the development and operation of first-class entertainment facilities, including food and other amenities, which ensures that the operation of electronic gaming devices by licensed racetracks as described in this chapter will create additional economic development and provide competition for out-of-state gaming that will promote the racing and tourism industries in the state and will generate substantial revenue for the state and the racing industry.

SECTION 2. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "Associated equipment" means any hardware located on a licensed racetrack's premises which is connected to the electronic gaming device system for the purpose of performing communication, validation, or other functions, but not including the electronic gaming devices or the telecommunications facilities of a public utility;

(2) "Central computer system" means any central site computer controlled by the Gaming Commission to which electronic gaming devices communicate for purposes of information retrieval and other purposes authorized by this chapter;

(3) (a) "Control" means:

1. The direct or indirect possession by a person and the affiliates and associates of that person of the power to direct or cause the direction of the management and policies of an eligible association, whether through the ownership of voting securities, by contract, or otherwise;

2. The direct or indirect beneficial ownership by a person and the affiliates and associates of that person of, or the direct or indirect power of a person and the affiliates and associates of that person to vote or direct the voting of, twenty percent (20%) or more of the votes entitled to be cast by an eligible association's owners; or

3. The direct or indirect beneficial ownership by a person and the affiliates and associates of that person of twenty percent (20%) or more of the ownership interests in an eligible association.

(b) For purposes of this subsection:

1. "Affiliate" means a person who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, a specified person; and

2. "Associate," when used to indicate a relationship with any person, means:

a. Any corporation or organization, other than the eligible association or a subordinate entity of the eligible association of which that person is an officer or equivalent position or the beneficial owner of ten percent (10%) or more of any class of ownership interests;

b. Any trust or other estate in which that person has a substantial beneficial interest or as to which that person serves as trustee or in a similar fiduciary capacity; and

c. Any relative or spouse of that person, or any relative of that spouse, any one of whom has the same home as that person;

(4) "Electronic gaming device" means a Gaming Commission-approved electronic or mechanical device sold, leased, or transferred to a racetrack licensed as an electronic gaming device operator, connected with the Gaming Commission's central computer system, and used for the purpose of playing electronic gaming device games. An electronic gaming device may:

(a) Simulate the play of one or more games of chance;

(b) Use spinning reels or video displays or both;

(c) Dispense coins, currency, vouchers, tokens, or redemption tickets directly to winning players;

(d) Use an electronic credit system making the deposit of coins, currency, vouchers, or tokens unnecessary; or

(e) Have the multifunctional ability to conduct both electronic gaming device games and pari-mutuel wagering on horse racing;

(5) "Electronic gaming device distributor" means any person holding a license granted by the Gaming Commission to engage in the business of buying, selling, leasing, servicing, or repairing electronic gaming devices, associated equipment, or the parts thereof for use by electronic gaming device operators;

(6) "Electronic gaming device employee" means any floor attendant, service technician, or validation manager who performs services for an electronic gaming device operator or for an electronic gaming device operations manager in connection with the operation of electronic gaming devices;

(7) "Electronic gaming device game" means any game, including but not limited to video poker, keno, line-up or blackjack, which is displayed or played on an electronic gaming device and which:

(a) Is connected to the Gaming Commission's central computer system by an on-line or dial-up telecommunications system;

(b) Is utilized by a player's insertion of coins, currency, vouchers, or tokens or entry of electronic credits into an electronic gaming device, which causes game play credits to be displayed on the electronic gaming device, and with respect to which, each game play credit entitles a player to choose one or more symbols or numbers or to cause the electronic gaming device to randomly select symbols or numbers;

(c) Allows the player to win additional game play credits, coins, currency, vouchers or tokens based upon game rules which establish the random selection of winning combinations of symbols or numbers or both and the number of free play credits, coins, currency, vouchers, or tokens to be awarded for each winning combination of symbols or numbers or both;

(d) Is based upon machine-generated random selection of winning combinations based wholly or predominantly on chance;

(e) In the case of an electronic gaming device operator choosing to operate an electronic gaming device, allowing the player an option to select replacement symbols, numbers, additional symbols, or numbers after the game is initiated, in the course of play, either:

1. Signals the player, prior to any optional selection by the player of randomly generated replacement symbols or numbers, as to which symbols or numbers should be retained by the player to present the best chance, based upon probabilities, that the player may select a winning combination;

2. Signals the player, prior to any optional selection by the player of randomly generated additional symbols or numbers, as to whether such additional selection presents the best chance, based upon probabilities, that the player may select a winning combination; or

3. Randomly generates additional or replacement symbols and numbers for the player after automatically selecting the symbols and numbers which should be retained to present the best chance, based upon probabilities, for a winning combination, so that in any event, the player is not permitted to benefit from any personal skill, based upon a knowledge of probabilities, before deciding which optional numbers or symbols to choose in the course of electronic gaming device play; and

(f) Allows a player at any time to simultaneously clear all game play credits and receive coins, currency, or a redemption ticket equal to the value of the free plays cleared from the electronic gaming device;

(8) "Electronic gaming device license" means authorization granted by the Gaming Commission to an eligible association which is licensed by the Racing Commission to conduct thoroughbred or standardbred racing under KRS Chapter 230, permitting the eligible association to operate electronic gaming devices at a racetrack in accordance with the provisions of this chapter;

(9) "Electronic gaming device manufacturer" or "manufacturer" means any person holding a license granted by the Gaming Commission to engage in the business of designing, building, constructing, assembling, or manufacturing electronic gaming devices, the electronic computer components of the electronic gaming devices, the random number generator of the electronic gaming devices, or the cabinet in which it is housed, and whose product is intended for sale, lease, or other transfer to a licensed racetrack in Kentucky which is an electronic gaming device operator. An electronic gaming device manufacturer may contract directly for the sale, lease, or other transfer of any such product to a racetrack in Kentucky licensed as an electronic gaming device operator, without holding a separate license as an electronic gaming device distributor;

(10) "Electronic gaming device operations manager" means any person holding a license granted by the Gaming Commission to manage, and which has contracted with an electronic gaming device operator to manage, the operation of the electronic gaming devices of an electronic gaming device operator;

(11) "Electronic gaming device operator" means an eligible association or associations, if applicable, which holds an electronic gaming device license;

(12) "Eligible association" means a person licensed by the Racing Commission to own and operate a racetrack, conduct a live horse race meeting at the racetrack and conduct pari-mutuel wagering thereon under KRS Chapter 230. Any association licensed to conduct pari-mutuel wagering or horse races under KRS 230.361(4) or KRS 230.398 shall not qualify as an eligible association;

(13) "Floor attendant" means a person who holds a license issued by the Gaming Commission and who corrects paper jams and bill jams in electronic gaming devices and also provides courtesy services for electronic gaming device players;

(14) "Gaming Commission" means the commission established by Section 3 of this Act.

(15) "Gaming income" means the total amount of coins, currency, vouchers, tokens, or electronic credits inserted or entered into the electronic gaming devices operated by an electronic gaming device operator, minus the total value of coins, currency, vouchers, and tokens won by a player and game credits which are cleared from the electronic gaming devices in exchange for coins, currency, or redemption tickets;

(16) "Progressive game" means any game whose jackpot grows and accumulates as it is being played on an electronic gaming device and whose outcome is randomly determined by the play of electronic gaming devices;

(17) "Racetrack" or "licensed racetrack" means a facility owned or leased by an eligible association and licensed by the Racing Commission as a racetrack under KRS Chapter 230; provided, for the purposes of this chapter, "racetrack" or "licensed racetrack" includes only a facility which was licensed by the racing commission and existing as of January 1, 2001. The term "racetrack" or "licensed racetrack" does not include any simulcast facility as defined in KRS 230.210(11); provided, the term "racetrack" or "licensed racetrack" may include any facility located within the same county as the facility of the eligible association that has been approved by the Racing Commission as of January 1, 2001, pursuant to KRS 230.300 as part of the place, track, or enclosure, or any other facility that is located within the same county as the facility of the eligible association and that, after January 1, 2001:

(a) Is approved by the Racing Commission pursuant to KRS 230.300 as part of the place, track, or enclosure; and

(b) If the other facility is not contiguous to the facility of the eligible association, is approved by a resolution of the governing body of the local jurisdiction in which the other facility is located; and

(c) In the case of a county in which more than one licensed racetrack is located, is approved in writing by the other licensed racetrack.

Provided further, however, an eligible association may operate electronic gaming devices at only one facility.

(18) "Racing Commission" means the Kentucky Racing Commission established and existing under KRS Chapter 230;

(19) "Service technician" means a person who holds a license issued by the Gaming Commission and who performs service, maintenance, and repair on licensed electronic gaming devices in this state;

(20) "Simulcast facility" means any facility approved under KRS 230.380 to simulcast racing and conduct pari-mutuel wagering; and

(21) "Validation manager" means a person who holds a license issued by the Gaming Commission and who performs electronic gaming device redemption services.

SECTION 3. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

There is hereby created the Kentucky Gaming Commission as an agency of the Commonwealth of Kentucky with the responsibility and power to supervise and regulate all electronic gaming device activities in the Commonwealth under this chapter.

SECTION 4. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The Gaming Commission shall consist of seven (7) members, to be qualified and appointed as provided in this section. Each member of the Gaming Commission shall:

(a) Be a citizen of the United States; and

(b) Have been a resident of the Commonwealth of Kentucky for at least six (6) months before such appointment.

(2) The Gaming Commission members shall devote such time to the business of the Gaming Commission as may be necessary to the discharge of their duties.

(3) No member of the Gaming Commission, at the time of appointment or during membership on the Gaming Commission, or his or her spouse, or any person within the fourth degree of relationship to either of them, shall:

(a) Be a member of the legislature, person holding any elective office in the state government, or any officer or official of any political party; or

(b) Have any pecuniary or ownership interest in, engage in any loan or credit transaction with, be employed by or hold a position with, or have any ownership or managerial position in any business or professional organization that provides goods or services to, engages in line of credit transactions with, or otherwise does business with, any licensee under this chapter, any manufacturer or distributor of electronic gaming devices, any other person engaging in a business relating to gambling, the lottery, or any affiliate of any thereof; or

(c) Have made any political contributions to the Governor who is making appointments of membership to the Gaming Commission.

(4) It is in the intention of the Legislature that the Gaming Commission be composed of the most qualified persons available, preferably no two (2) of whom shall be of the same profession or major field of industry; provided, however, that no person actively engaged or having a direct pecuniary interest in gaming activities shall be a member of the Gaming Commission.

(5) Before entering upon the duties of his or her office, each member shall subscribe to the constitutional oath of office and, in addition, swear that he or she has not made any political contributions to the Governor appointing him or her and that he or she is not pecuniarily interested in any business or organization holding a gaming license or doing business with any such person or organization. The oath of office shall be filed in the office of the Gaming Commission.

SECTION 5. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The Governor shall appoint seven (7) members of the Gaming Commission, one (1) member from each of the six (6) congressional districts and one (1) member at large. The appointment of each member shall be subject to approval by the Senate and the House of Representatives under KRS 11.160, provided that the initial members shall validly serve until and subject to such approval.

(2) One (1) member of the Gaming Commission shall be a certified public accountant licensed by the Commonwealth of Kentucky, or by another state of the United States, or a public accountant qualified to practice public accounting under the provisions of KRS Chapter 325 and have at least five (5) years of progressively responsible experience in general accounting, and have a comprehensive knowledge of the principles and practices of corporate finance; or the person shall possess the qualifications of an expert in the fields of corporate finance and auditing, general finance, gaming, or economics.

(3) One (1) member of the Gaming Commission shall be selected with special reference to his or her training and experience in the fields of investigation, law enforcement, law, or gaming.

(4) Not more than four (4) of the members of the Gaming Commission shall be registered as members of the same political party.

(5) Initial appointments to the Gaming Commission made pursuant to this chapter shall be for terms as follows:

(a) Two (2) members for two (2) years;

(b) Two (2) members for three (3) years; and

(c) Three (3) members for four (4) years.

(6) The term of each of the members first appointed pursuant to this chapter, and the member who shall serve as chairperson of the commission, shall be designated by the Governor. After the initial terms, the term of office of each member of the Gaming Commission shall be four (4) years.

(7) The Governor may remove any member for misfeasance, malfeasance, or nonfeasance in office. Removal may be made after:

(a) The member has been served with a copy of the charges against him or her; and

(b) A public hearing before the Governor is held upon the charges, if requested by the member charged.

The request for a public hearing shall be made within ten (10) days after service upon the member of the charges. If a hearing is not requested, a member shall be deemed removed effective ten (10) days after service of charges upon him or her. A record of the proceedings at the public hearing shall be filed with the Secretary of State.

(8) No person holding any license in accordance with this chapter related to electronic gaming devices, or any license or permit issued pursuant to KRS Chapters 230, 154A, or 238, or any affiliate of any of them, may lawfully employ, offer to employ, or agree to employ, any person who previously served as a member of the Gaming Commission within a period of three (3) years following the termination of his or her service as a member of the Gaming Commission. It shall be a condition to the service of any member of the Gaming Commission, who shall be deemed to agree to such condition by his or her acceptance or membership on the Gaming Commission, that he or she will not be employed by, agree to be employed by, or solicit employment from, any licensee described in the preceding sentence for a period of three (3) years following the termination of his or her service as a member of the Gaming Commission, or by any affiliate thereof.

SECTION 6. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

The Gaming Commission members are each entitled to receive a fee in the amount of one hundred dollars ($100) for each meeting of the Gaming Commission that they attend.

SECTION 7. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The Gaming Commission may:

(a) Establish, and from time to time alter, such plan of organization as it may deem expedient;

(b) Acquire such furnishings, equipment, supplies, stationery, books, motor vehicles, and all other things as it may deem necessary or desirable in carrying out its functions; and

(c) Incur such other expenses, within the limit of money available to it, as it may deem necessary.

(2) Except as otherwise provided in this chapter, all costs of administration incurred by the Gaming Commission shall be paid out on claims from the state general fund in the same manner as other claims against the Commonwealth are paid.

(3) The Gaming Commission shall, within the limits of legislative appropriations or authorizations, employ and fix the salaries of or contract for the services of such professional, technical, and operational personnel and consultants as the execution of its duties and the operation of the Gaming Commission may require.

(4) The Gaming Commission shall, by suitable administrative regulations, establish a comprehensive plan governing employment, job classifications and performance standards, and retention or discharge of employees to ensure that termination or other adverse action is not taken against these employees except for cause. The administrative regulations shall include provisions for hearings in personnel matters and for review of adverse actions taken in those matters.

SECTION 8. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

The Gaming Commission may employ the services of such persons as it considers necessary for the purposes of consultation or investigation.

SECTION 9. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

The Gaming Commission shall keep its main office at Frankfort, Kentucky.

SECTION 10. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The position of executive director of the Gaming Commission is hereby created. The Gaming Commission shall appoint the executive director, and the executive director shall serve at the will and pleasure of the Gaming Commission.

(2) The executive director, at the time of appointment or during the time of service as executive director, or his or her spouse, or any person within the fourth degree of relationship to either of them, shall not:

(a) Be a member of the Legislature, person holding any elective office in the state government, or any officer or official of any political party; or

(b) Have any pecuniary or ownership interest in, engage in any loan or credit transaction with, be employed by or hold a position with, or have any ownership or managerial position in any business or professional organization that provides goods or services to, engages in line of credit transactions with, or otherwise does

business with, any eligible association, any licensee under this chapter, any manufacturer or distributor of gaming equipment, any other person engaged in a business relating to gambling, the lottery, or racing, or any affiliate of any thereof; or

(c) Have made any political contributions to the Governor who appointed the members of the Gaming Commission.

(3) The executive director shall have at least five (5) years of responsible administrative experience in public or business administration or possess broad management skills.

(4) The executive director shall devote his or her entire time and attention to the duties imposed under this chapter and the business of the Gaming Commission and shall not pursue any other business or occupation or hold any other office of profit.

(5) The executive director is entitled to an annual salary in the amount specified by the Gaming Commission.

SECTION 11. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The executive director shall furnish to the Gaming Commission such administrative and clerical services and such furnishings, equipment, supplies, stationery, books, and all other things that the Gaming Commission may deem necessary or desirable in carrying out its functions.

(2) The executive director shall be authorized to create such other positions as he or she deems necessary to implement the provisions of this chapter.

(3) The executive director in pursuit of the attainment of the objectives and the purposes of this chapter may:

(a) Direct and supervise all administrative actions of the Gaming Commission;

(b) Sue on behalf of the Gaming Commission;

(c) Make, execute, and effectuate any and all agreements or contracts, including contracts for the purchase of goods and services as are necessary;

(d) Employ the services of such persons as are considered necessary for the purposes of consultation or investigation and fix the salaries of or contract for the services of such legal, professional, technical, and operational personnel and consultants;

(e) Acquire such furnishings, equipment, supplies, stationery, books and any other things as he or she may deem necessary or desirable in carrying out his or her functions; and

(f) Perform such other duties which he or she may deem necessary to effectuate the purposes of this chapter.

(4) Except as otherwise provided in this chapter, all costs of administration incurred by the executive director shall be paid out on claims from the State Treasury in the same manner as other claims against the Commonwealth are paid.

SECTION 12. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The executive director shall maintain a file of all applications for licenses under this chapter, together with a record of all action taken with respect to those applications. The file and record are open to public inspection, except those portions declared by law to be confidential.

(2) The Gaming Commission and executive director may maintain such other files and records as they deem desirable.

(3) All information and data identified in paragraphs (a), (b), (c), and (d) of this subsection are confidential and may be revealed in whole or in part only in the course of the necessary administration of this chapter, or upon the lawful order of a court of competent jurisdiction, except that the executive director or the Gaming Commission may reveal such information and data to an authorized agent of any agency of the United States Government, any state, or any political subdivision of this state pursuant to administrative regulations adopted by the Gaming Commission:

(a) Information and data required by the Gaming Commission or the executive director to be furnished to them under this chapter or which may otherwise be obtained relative to the finances, earnings, or revenue of any applicant or licensee;

(b) Information and data pertaining to an applicant's criminal record, antecedents, and background which have been furnished to or obtained by the Gaming Commission or the executive director from any source;

(c) Information and data provided to the members of the Gaming Commission or the executive director or his or her employees by a governmental agency or an informer or on the assurance that the information will be held in confidence and treated as confidential; or

(d) Information and data obtained by the executive director or the Gaming Commission from a manufacturer, distributor, or operator relating to the manufacturing of electronic gaming devices.

(4) Notice of the content of any information or data furnished or released pursuant to this section may be given to any applicant or licensee in a manner prescribed by administrative regulations adopted by the Gaming Commission.

SECTION 13. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The Gaming Commission may hold regular and special meetings at such times and places as it may deem convenient, and it shall hold at least one (1) regular meeting each month.

(2) All meetings of the Gaming Commission are open to the public except for investigative hearings which may be conducted in private at the discretion of the Gaming Commission or hearing examiner.

(3) A majority of the members constitutes a quorum of the Gaming Commission, and a majority of members present at any meeting determines the action of the Gaming Commission.

(4) Investigative hearings may be conducted by one or more members with the concurrence of a majority of the Gaming Commission, or by a hearing examiner appointed by the Gaming Commission, without notice, at such times and places, within or without the State of Kentucky, as may be convenient.

SECTION 14. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The Gaming Commission shall cause to be made and kept a record of all proceedings at regular and special meeting of the Gaming Commission, which records shall be open to public inspection.

(2) The Gaming Commission shall maintain a file of all applications for licenses under this chapter, together with a record of all action taken with respect to those applications. The file and record shall be open to public inspection.

(3) The Gaming Commission may maintain such other files and records as it may deem desirable.

(4) Except as otherwise provided in this subsection and subsection (5) of this section, all information and data identified in paragraphs (a), (b), (c), (d), and (e) of this subsection are confidential and may be revealed in whole or in part only in the course of the necessary administration of this chapter or upon the lawful order of a court of competent jurisdiction. The Gaming Commission may reveal such information and data to an authorized agent of any agency of the United States Government, any state, or any political subdivision of this state pursuant to administrative regulations adopted by the Gaming Commission:

(a) Information and data required by the Gaming Commission to be furnished to it under this chapter or which may be otherwise obtained relative to the finances, earnings, or revenue of any applicant or licensee;

(b) Information and data pertaining to an applicant's criminal record, antecedents, and background which have been furnished to or obtained by the Gaming Commission from any source;

(c) Information and data provided to the members, agents, or employees of the Gaming Commission by a governmental agency or an informer or on the assurance that the information will be held in confidence and treated as confidential;

(d) Information and data obtained by the Gaming Commission from a manufacturer, distributor, or operator relating to the manufacturing of electronic gaming devices; or

(e) Information and data related to trade secrets, proprietary data, internal controls, and security of operations for operators.

(5) Notice of the content of any information or data furnished or released pursuant to subsection (4) of this section may be given to any applicant or licensee in a manner prescribed by administrative regulations adopted by the Gaming Commission.

(6) All files, records, reports, and other information pertaining to electronic gaming device matters in the possession of the Kentucky Revenue Cabinet shall be made available to the Gaming Commission as is necessary to the administration of this chapter.

SECTION 15. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The Gaming Commission shall oversee the administration of this chapter to ensure that these laws are administered for the protection of the public and in the public interest in accordance with the policy of the state.

(2) The duties of the Gaming Commission shall include:

(a) Performing a continuing study of the electronic gaming industry in this country and making periodic reports to the Governor and the Legislature concerning needed revisions in the laws of the state that provide for the licensing, regulation, and taxation of all electronic gaming;

(b) Initiating enforcement proceedings against any licensees, employees, and other persons involved in electronic gaming to enforce the provisions of this chapter, and to enforce the other applicable laws and applicable rules and regulations of the Gaming Commission;

(c) Considering and deciding appeals from actions taken by the Gaming Commission; and

(d) Performing such other duties and exercising such other powers as are either expressly or by reasonable implication authorized by this chapter as shall be necessary to achieve the primary purpose of providing effective and honest licensing and regulation of electronic gaming.

(3) The provisions of this chapter with respect to electronic gaming licenses shall be administered by the Gaming Commission for the protection of the public and in the public interest in accordance with the policy of this state.

(4) The Gaming Commission and its agents may:

(a) Inspect and examine all premises wherein electronic gaming activities are conducted or electronic gaming devices or equipment are manufactured, sold, or distributed;

(b) Inspect all electronic gaming equipment and supplies in, upon, or about such premises;

(c) Summarily seize and remove from such premises and impound any equipment, supplies, documents, or records related to electronic gaming for the purpose of examination and inspection;

(d) Demand access to and inspect, examine, photocopy, and audit all papers, books, and records of any applicant or licensee, on his or her premises, or elsewhere as practicable, and in the presence of the applicant or licensee, or his or her agent, respecting the gross income produced by any electronic gaming business, and require verification of income, and all other matters related to electronic gaming affecting the enforcement of the policy or any of the provisions of this chapter; and

(e) Demand access to and inspect, examine, photocopy, and audit all papers, books and records of any affiliate of a licensee related to electronic gaming who the commission knows or reasonably suspects is involved in the financing, operation, or management of the electronic gaming activities of the licensee. The inspection, examination, photocopying, and audit may take place on the affiliate's premises or elsewhere as practicable, and in the presence of the affiliate or its agent.

(5) For the purpose of conducting audits after the cessation of electronic gaming by a licensee, the former licensee shall furnish, upon demand of an agent of the Gaming Commission, books, papers, and records as necessary to conduct the audits. The former licensee shall maintain all books, papers, and records necessary for audits for a period of one (1) year after the date of the surrender or revocation of his or her electronic gaming license. If the former licensee seeks judicial review of a deficiency determination or files a petition for a redetermination, he or she shall maintain all books, papers, and records until a final order is entered on the determination.

(6) The Gaming Commission may investigate, for the purpose of prosecution, any suspected regulatory or criminal violation of the provisions of this chapter. For the purpose of the administration and enforcement of those provisions, the members of the Gaming Commission and those agents of the Gaming Commission whose duties include the enforcement, or the investigation of suspected violations, of statutes or regulations, have the powers of a peace officer of this state.

(7) For the purpose of protecting members of the Gaming Commission and their families and property, and providing security at meetings of the Gaming Commission, those agents of the Gaming Commission whose duties include the enforcement of statutes or regulations have the powers of a peace officer of this state.

(8) The Gaming Commission or any of its members shall have full power and authority to issue subpoenas and compel the attendance of witnesses at any place within this state, to administer oaths, and to require testimony under oath. Any process or notice may be served in the manner provided for service of process and notices in civil actions. The Gaming Commission may pay such transportation and other expenses of witnesses as it may deem reasonable and proper. Any person making a false oath in any matter before the Gaming Commission shall be guilty of perjury. The Gaming Commission or any member thereof may appoint hearing examiners who may administer oaths and receive evidence and testimony under oath.

SECTION 16. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The Gaming Commission shall investigate the qualifications of each applicant for the issuance, renewal, transfer, or reinstatement of any license under this chapter.

(2) If the Gaming Commission has reason to believe, either because of information gained by investigation or because of information brought to its attention by others, that a violation of law by a licensee or other person involved with an electronic gaming establishment has occurred, the Gaming Commission may investigate such activities for the purpose of determining if the alleged violations of law have occurred, and thereafter may take any lawful actions to enforce any violation of law, including:

(a) The initiation of proceedings by the Gaming Commission that may result in the suspension or revocation of any license and a levy of fines;

(b) The institution of proceedings in the Circuit Court of a county for injunctive relief; and

(c) The referral of the matter to the Attorney General or the county or Commonwealth's attorney of the county for criminal prosecution.

(3) If after any investigation the Gaming Commission is satisfied that a license or prior approval by the commission of any transaction for which approval was required or permitted under the provisions of this chapter should be limited, conditioned, suspended, or revoked or that a fine should be levied, the Gaming Commission shall initiate a hearing by filing its complaint with the licensee and transmitting therewith a summary of evidence bearing on the matter and the transcript of testimony at any investigative hearing conducted by or on behalf of the Gaming Commission to the licensee. The complaint shall be a written statement of charges which shall set forth in ordinary and concise language the acts or omission with which the respondent is charged. It shall specify the statutes and regulations which the respondent is alleged to have violated.

(4) The respondent shall answer within twenty (20) days after the service of the complaint.

(5) The Gaming Commission or its hearing examiner shall conduct proceedings in accordance with Section 20 of this Act. After such proceedings as may be required or permitted by the Gaming Commission, the hearing examiner may recommend that the Gaming Commission take any appropriate action, including revocation, suspension, limitation, or conditioning of a license, or imposition of a fine not to exceed ten thousand dollars ($10,000) for each violation.

(6) The hearing examiner shall prepare a written decision containing his or her recommendation to the Gaming Commission and shall serve it on all parties. Any respondent that disagrees with the hearing examiner's recommendation may ask the Gaming Commission to review the recommendation within ten (10) days of service of the recommendation.

(7) The Gaming Commission shall review the recommendation. The Gaming Commission may remand the case to the hearing examiner for the presentation of additional evidence upon a showing of good cause why the evidence could not have been presented at the previous hearing.

(8) The Gaming Commission shall by a majority vote accept, reject, or modify the recommendation.

(9) If the Gaming Commission limits, conditions, suspends, or revokes any license or imposes a fine, or denies, limits, conditions, suspends, or revokes any prior approval, it shall issue its written order therefor, and shall furnish each party notification of the order.

(10) Any such limitation, condition, revocation, suspension, or fine so made is effective until reversed by the Gaming Commission or upon judicial review, except that the Gaming Commission may stay its order pending a rehearing by the Gaming Commission or judicial review upon such terms and conditions as it deems proper.

SECTION 17. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Within twenty (20) days after receipt of any application, the Gaming Commission shall examine the application, notify the applicant of any apparent errors or omissions, request any additional information the Gaming Commission wishes to obtain and shall be permitted by law to require, and notify the applicant of the name, official title, mailing address, and telephone number of a Gaming Commission member or employee who may be contacted regarding the application.

(2) Within sixty (60) days after receipt of the application or of the response to a timely request made by the Gaming Commission pursuant to subsection (1) of this section, the Gaming Commission shall approve or deny the application, in whole or in part, on the basis of the criteria set forth in this chapter.

SECTION 18. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Unless prohibited by any provision of law, the Gaming Commission, on its own motion, may conduct administrative review of an order of the hearing examiner.

(2) Unless otherwise provided by statute:

(a) A hearing examiner appointed by the Gaming Commission shall preside at the review proceedings and the hearing examiner shall be one who is authorized to grant appropriate relief upon a review.

(b) The hearing examiner shall give each party an opportunity to explain the party's view of the matter unless the party's view is apparent from the written materials in the file submitted to the hearing examiner. The hearing examiner shall make any inquiries necessary to ascertain whether a formal adjudicative hearing is required pursuant to this chapter.

(c) The hearing examiner may render an order disposing of the proceeding in any manner that is permissible under this chapter or the hearing examiner may remand the matter for further proceedings, with or without recommending a formal adjudicative hearing.

(d) The order on review shall be in writing, including a brief statement of findings of fact, conclusions of law, and policy reasons for the decision if it is an exercise of the Gaming Commission's discretion, to justify the order, and a notice of any further available administrative review.

(e) A request for administrative review shall be deemed to have been denied if the hearing examiner does not dispose of the matter or remand it for further proceedings within thirty (30) days after the request is submitted.

(3) The Gaming Commission record shall consist of any documents regarding the matter that were considered or prepared by the Gaming Commission for the initial order or by the hearing examiner for any review. The Gaming Commission shall maintain these documents as its official record.

(4) Unless otherwise required by a provision of law, the Gaming Commission record need not constitute the exclusive basis for Gaming Commission action or for judicial review thereof.

SECTION 19. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

In the case of any formal adjudicative hearing:

(1) The executive director or a hearing examiner appointed by the Gaming Commission may be the presiding officer.

(2) Any person serving or designated to serve alone or with others as presiding officer is subject to disqualification for bias, prejudice, interest, or any other cause provided in this chapter or for which a judge is or may be disqualified.

(3) Any party may petition for the disqualification of a person promptly after receipt of notice indicating that the person will preside or promptly upon discovering facts establishing grounds for disqualification, whichever is later.

(4) A person whose disqualification is requested shall determine whether to grant the petition, stating facts and reasons for the determination.

(5) If a substitute is required for a person who is disqualified or becomes unavailable for any other reason, the substitute

shall be appointed by the Gaming Commission.

(6) Any action taken by a duly appointed substitute for a disqualified or unavailable person shall be as effective as if taken by the latter.

(7) Any party may participate in the hearing in person or, if the party is a company or other artificial person, by a duly authorized representative.

(8) Whether or not participating in person, any party may be advised and represented at the party's own expense by counsel or, if permitted by law, other representative.

(9) The presiding officer for the hearing may issue a prehearing order, based on the pleadings, to regulate the conduct of the proceedings.

(10) The presiding officer for the hearing shall set the time and place of the hearing and give reasonable written notice to all parties and to all persons who have filed written petitions to intervene in the matter.

(11) The notice shall include a copy of any prehearing order rendered in the matter.

(12) To the extent not included in a prehearing order accompanying it, the notice shall include:

- *(a) The names and mailing addresses of all parties and other persons to whom notice is being given by the presiding officer;*
- *(b) The name, official title, mailing address, and telephone number of any counsel or employee who has been designated to appear for the Gaming Commission.*
- *(c) The official file or other reference number, the name of the proceeding, and a general description of the subject matter;*
- *(d) A statement of the time, place, and nature of the hearing;*
- *(e) A statement of the legal authority and jurisdiction under which the hearing is to be held;*
- *(f) The name, official title, mailing address, and telephone number of the presiding officer;*
- *(g) A statement of the issues involved and, to the extent known to the presiding officer, of the matters asserted by the parties; and*
- *(h) A statement that a party who fails to attend or participate in a hearing, or other stage of an adjudicative proceeding, may be held in default under this chapter.*

(13) The notice may include any other matters the presiding officer considers desirable to expedite the proceedings.

(14) The Gaming Commission shall give notice to persons entitled to notice under any provision of law who have not been given notice by the presiding officer. Notice under this subsection may include all types of information provided in subsections (10) to (13) of this section or may consist of a brief statement indicating the subject matter, parties, time, place, and nature of the hearing, manner in which copies of the notice to the parties may be inspected and copied, and name and telephone number of the presiding officer.

(15) The presiding officer, at appropriate stages of the proceedings, shall give all parties full opportunity to file pleadings, motions, objections, and offers of settlement.

(16) The presiding officer, at appropriate stages of the proceedings, may give all parties full opportunity to file briefs, proposed findings of fact and conclusions of law, and proposed initial or final orders.

(17) A party shall serve copies of any filed item on all parties, by mail or any other means described by Gaming Commission rule.

(18) If a party fails to attend or participate in a hearing, or other stage of an adjudicative proceeding, the presiding officer may serve upon all parties written notice of a proposed default order, including a statement of the grounds.

(19) Within seven (7) days after service of a proposed default order, the party against whom it was issued may file a written motion requesting that the proposed default order be vacated and stating the grounds relied upon. During the time within which a party may file a written motion under this subsection, the presiding officer may adjourn the proceedings or conduct them without the participation of the party against whom a proposed default order was issued, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings.

(20) The presiding officer shall either issue or vacate the default order promptly after expiration of the time within which the party may file a written motion under subsection (19) of this section.

(21) After issuing a default order, the presiding officer shall conduct any further proceedings necessary to complete the adjudication without the participation of the party in default and shall determine all issues in the adjudication, including those affecting the defaulting party.

(22) The presiding officer shall grant a petition for intervention if:

- *(a) The petition is submitted in writing to the presiding officer, with copies mailed to all parties named in the presiding officer's notice of the hearing, at least three (3) days before the hearing;*
- *(b) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities, or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervener*

under any provision of law; and

(c) The presiding officer determines that the interests of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing the intervention.

(23) The presiding officer may grant a petition for intervention at any time, upon determining that the intervention sought is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.

(24) If a petitioner qualifies for intervention, the presiding officer may impose conditions upon the intervener's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:

(a) Limiting the intervener's participation to designated issues in which the intervener has a particular interest demonstrated by the petitioner;

(b) Limiting the intervener's use of discovery, cross-examination, and other procedures so as to promote the orderly and prompt conduct of the proceedings; and

(c) Requiring two (2) or more interveners to combine their presentations of evidence and argument, cross-examination, discovery, and other participation in the proceedings.

(25) The presiding officer, at least twenty-four (24) hours before the hearing, shall issue an order granting or denying each pending petition for intervention, specifying any conditions, and briefly stating the reasons for the order. The presiding officer may modify the order at any time, stating the reasons for the modification. The presiding officer shall promptly give notice of an order granting, denying, or modifying intervention to the petitioner for intervention and to all parties.

(26) The presiding officer may issue subpoenas, discovery orders, and protective orders, in accordance with the Kentucky Rules of Civil Procedure.

(27) Subpoenas and orders issued under this section may be enforced pursuant to the provisions of this chapter on civil enforcement of commission action.

SECTION 20. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

At a formal hearing, the following procedures shall apply:

(1) The presiding officer shall regulate the course of the proceedings in conformity with any prehearing order.

(2) To the extent necessary for full disclosure of all relevant facts and issues, the presiding officer shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence, except as restricted by a limited grant of intervention or by the prehearing order.

(3) The presiding officer may give a nonparty an opportunity to present oral or written statements. If the presiding officer proposes to consider a statement by a nonparty, the presiding officer shall give all parties an opportunity to challenge or rebut it and, on motion of any party, the presiding officer shall require the statement to be given under oath or affirmation.

(4) The presiding officer may conduct all or part of the hearing by telephone, television, or other electronic means, if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

(5) The presiding officer shall cause the hearing to be recorded at the Gaming Commission's expense. The Gaming Commission is not required, at its expense, to prepare a transcript, unless required to do so by a provision of law. Any party, at the party's expense, may cause a reporter approved by the Gaming Commission to prepare a transcript from the Gaming Commission's record, or cause additional recordings to be made during the hearing if the making of the additional recordings does not cause distraction or disruption.

(6) The hearing shall be open to public observation, except for the parts that the presiding officer states to be closed pursuant to a provision of law expressly authorizing closure. To the extent that a hearing is conducted by telephone, television, or other electronic means, and is not closed, the availability of public observation shall be satisfied by giving members of the public an opportunity, at reasonable times, to hear or inspect the Gaming Commission's record, and to inspect any transcript obtained by the Gaming Commission.

(7) Upon proper objection, the presiding officer shall exclude evidence that is irrelevant, immaterial, unduly repetitious, or excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this Commonwealth. In the absence of proper objection, the presiding officer may exclude objectionable evidence. Evidence may not be excluded solely because it is hearsay.

(8) All testimony of parties and witnesses shall be made under oath or affirmation.

(9) Statements presented by a nonparty in accordance with subsection (3) of this section may be received as evidence.

(10) Any part of the evidence may be received in written form if doing so will expedite the hearing without substantial prejudice to the interests of any party.

(11) Documentary evidence may be received in the form of a copy or excerpt. Upon request, parties may be given an opportunity to compare the copy with the original if available.

(12) (a) Official notice may be taken of:

1. Any fact that could be judicially noticed in the courts of this state;

2. The record of other proceedings before the Gaming Commission;

3. Technical or scientific matters within the Gaming Commission's specialized knowledge; and

4. Codes or standards that have been adopted by an agency of the United States, of this state or of another state, or by a nationally recognized organization or association.

(b) Parties shall be notified before or during the hearing, or before the issuance of any final order that is based in whole or in part on facts or material noticed, of the specific facts or material noticed and the source thereof, including any staff memoranda and data, and shall be afforded an opportunity to contest and rebut the facts or material so noticed.

(13) Except as provided in subsection (14) of this section or unless required for the disposition of ex parte matters specifically authorized by statute, a presiding officer serving in an adjudicative proceeding shall not communicate, directly or indirectly, regarding any issue in the proceeding, while the proceeding is pending, with any party, with any person who has a direct or indirect interest in the outcome of the proceeding, or with any person who presided at a previous stage of the proceeding, without notice and opportunity for all parties to participate in the communication.

(14) A member of a multimember panel of presiding officers may communicate with other members of the panel regarding a matter pending before the panel, and any presiding officer may receive aid from staff assistants if the assistants do not:

(a) Receive ex parte communications of a type that the presiding officer would be prohibited from receiving; or

(b) Furnish, augment, diminish, or modify the evidence in the record.

(15) Unless required for the disposition of ex parte matters specifically authorized by statute, no party to an adjudicative proceeding, and no person who has a direct or indirect interest in the outcome of the proceeding or who presided at a previous stage of the proceeding, shall communicate, directly or indirectly, in connection with any issue in that proceeding, while the proceeding is pending, with any person serving as presiding officer, without notice and opportunity to all parties to participate in the communication.

(16) If, before serving as presiding officer in an adjudicative proceeding, a person receives an ex parte communication of a type that would not properly be received while serving, the person, promptly after starting to serve, shall disclose the communication in the manner prescribed in subsection (17) of this section.

(17) A presiding officer who receives an ex parte communication in violation of this section shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the presiding officer received an ex parte communication, and shall advise all parties that these matters have been placed on the record. Any party desiring to rebut the ex parte communication shall be allowed to do so, upon requesting the opportunity for rebuttal within ten (10) days after notice of the communication.

(18) If necessary to eliminate the effect of an ex parte communication received in violation of this section, a presiding officer who receives the communication may be disqualified and the portions of the record pertaining to the communication may be sealed by protective order.

(19) The Gaming Commission shall, and any party may, report any willful violation of this section to appropriate authorities for any disciplinary proceedings provided by law. In addition, the Gaming Commission by rule may provide for appropriate sanctions, including default, for any violations of this section.

(20) Upon recommendation by the presiding officer, the Gaming Commission shall render a final order. The final order shall include, separately stated, findings of fact, conclusions of law, and policy reasons for the decision if it is an exercise of the Gaming Commission's discretion, for all aspects of the order, including the remedy prescribed and, if applicable, the action taken on a petition for stay of effectiveness. Findings of fact, if set forth in language that is more than mere repetition or paraphrase of the relevant provision of law, shall be accompanied by a concise and explicit statement of the underlying facts of record to support the findings. If a party has submitted proposed findings of fact, the order shall include a ruling on the proposed findings. The order shall also include a statement of the available procedures and time limits for seeking reconsideration or other administrative relief.

(21) Findings of fact shall be based exclusively upon the evidence of record in the adjudicative proceeding and on matters officially noticed in that proceeding. Findings shall be based upon the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their serious affairs and may be based upon such evidence even if it would be inadmissible in a civil trial. The presiding officer's experience, technical competence, and specialized knowledge may be utilized in evaluating evidence.

(22) If a person serving or designated to serve as presiding officer becomes unavailable, for any reason, before rendition of the final order or initial order, a substitute presiding officer shall be appointed as provided in subsection (5) of Section 19 of this Act. The substitute presiding officer shall use any existing record and may conduct any further proceedings appropriate in the interests of justice.

(23) The presiding officer may allow the parties a designated amount of time after conclusion of the hearing for the submission of proposed findings.

(24) A final order pursuant to this section shall be rendered in writing within ninety (90) days after conclusion of the hearing or after submission of proposed findings in accordance with subsection (23) of this section unless this period is waived or extended with the written consent of all parties or for good cause shown.

(25) The presiding officer shall cause copies of the final order or initial order to be delivered to each party and to the Gaming Commission.

SECTION 21. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) A party may submit to the presiding officer a petition for stay of effectiveness of a final order within seven (7) days after its rendition unless otherwise provided by statute or stated in the final order. The presiding officer may take action on the petition for stay, either before or after the effective date of the final order.

(2) Unless otherwise provided by statute or rule:

- *(a) Any party, within ten (10) days after rendition of a final order, may file a petition for reconsideration, stating the specific grounds upon which relief is requested. The filing of the petition is not a prerequisite for seeking administrative or judicial review.*
- *(b) The petition shall be disposed of by the same person or persons who rendered the final order, if available.*
- *(c) The presiding officer shall render a written order denying the petition, granting the petition and dissolving or modifying the final order, or granting the petition and setting the matter for further proceedings. The petition may be granted, in whole or in part, only if the presiding officer states, in the written order, findings of fact, conclusions of law and policy reasons for the decision, if it is an exercise of the Gaming Commission's discretion, to justify the order. The petition shall be deemed to have been denied if the presiding officer does not dispose of it within twenty (20) days after the filing of the petition.*

SECTION 22. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Unless a later date is stated in a final order or a stay is granted, a final order shall be effective ten (10) days after rendition, but:

- *(a) A party shall not be required to comply with a final order unless the party has been served with or has actual knowledge of the final order; and*
- *(b) A nonparty shall not be required to comply with a final order unless the agency has made the final order available for public inspection and copying or the nonparty has actual knowledge of the final order.*

(2) Unless a later date is stated in an initial order or a stay is granted, the time when an initial order becomes a final order shall be determined as follows:

- *(a) When the initial order is rendered, if administrative review is unavailable;*
- *(b) When the Gaming Commission renders an order stating, after a petition for appeal has been filed, that review will not be exercised, if discretion is available to make a determination to this effect; or*
- *(c) Ten (10) days after rendition of the initial order, if no party has filed a petition for appeal and the Gaming Commission has not given written notice of its intention to exercise review.*

(3) Unless a later date is stated in an initial order or a stay is granted, an initial order that becomes a final order shall be effective ten (10) days after becoming a final order, but:

- *(a) A party shall not be required to comply with the final order unless the party has been served with or has actual knowledge of the initial order or of an order stating that review will not be exercised; and*
- *(b) A nonparty shall not be required to comply with the final order unless the Gaming Commission has made the initial order available for public inspection and copying or the nonparty has actual knowledge of the initial order or of an order stating that review will not be exercised.*

(4) This section does not preclude the Gaming Commission from taking immediate action to protect the public interest in accordance with Section 24 of this Act.

SECTION 23. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The Gaming Commission shall maintain an official record of each adjudicative proceeding under this chapter.

(2) The official record consists only of:

- *(a) Notices of all proceedings;*
- *(b) Any prehearing order;*
- *(c) Any motions, pleadings, briefs, petitions, requests, and intermediate rulings;*
- *(d) Evidence received or considered;*
- *(e) A statement of matters officially noticed;*
- *(f) Proffers of proof and objections and rulings thereon;*
- *(g) Proposed findings, requested orders, and exceptions;*
- *(h) The record prepared for the presiding officer at the hearing, together with any transcript of all or part of the*

hearing considered before final disposition of the proceeding;

(i) Any final order, initial order, or order on reconsideration;

(j) Staff memoranda or data submitted to the presiding officer, unless prepared and submitted by personal assistants and not inconsistent with subsection (14) of Section 20 of this Act; and

(k) Matters placed on the record after an ex parte communication.

(3) Except to the extent that this chapter or another statute provides otherwise, the official record constitutes the exclusive basis for commission action in adjudicative proceedings under this chapter and for judicial review thereof.

SECTION 24. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

The Gaming Commission may issue an emergency order for suspension, limitation, or conditioning of a license or may issue an emergency order requiring a licensed electronic gaming establishment to keep any individual licensee from the premises of the licensed electronic gaming establishment or not to pay that licensee any remuneration for services or any profits, income, or accruals on his or her investment in the licensed electronic gaming establishment in the following manner:

(1) An emergency order may be issued only when the Gaming Commission believes that:

(a) Any licensee has willfully failed to report, pay, or truthfully account for and pay over any fee imposed by the provisions of this chapter or willfully attempted in any manner to evade or defeat any such fee or payment thereof;

(b) Any licensee or electronic gaming device employee has cheated at any electronic gaming device game; or

(c) This action is necessary for the immediate preservation of the public peace, health, safety, morals, good order, or general welfare.

(2) The emergency order shall set forth the grounds upon which it is issued, including a statement of facts constituting the alleged emergency necessitating such action.

(3) An emergency order may be issued only with the approval of and upon signature by not less than three (3) members of the Gaming Commission.

(4) The emergency order shall be effective immediately upon issuance and service upon the licensee or resident agent of the licensee or electronic gaming employee. The emergency order may suspend, limit, condition, or take other action in relation to the license of one or more persons in an operation without affecting other individual licensees or the licensed electronic gaming establishment. The emergency order shall remain effective until further order of the Gaming Commission or final disposition of the case.

(5) Within five (5) days after issuance of an emergency order, the executive director shall cause a complaint to be filed and served upon the person or entity involved. Thereafter, the person or entity against whom the emergency order has been issued and served shall be entitled to a hearing before the Gaming Commission in accordance with the provisions of Section 19 and Section 20 of this Act; and to judicial review of the decision and order of the commission thereon in accordance with the provisions of Section 25 of this Act.

SECTION 25. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

Any licensee or any applicant aggrieved by any order of the Gaming Commission may appeal to the Franklin Circuit Court within the time and in the manner provided by KRS 13B.140, 13B.150, and 13B.160.

SECTION 26. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The Gaming Commission shall by administrative regulation provide for the establishment of a list of persons who are to be excluded or ejected from any licensed electronic gaming establishment. The list may include any person whose presence in the establishment is determined by the Gaming Commission to pose a threat to the interests of this state or to licensed electronic gaming or both.

(2) (a) In making the determination under this section, the Gaming Commission may consider whether the person:

1. Has been convicted of any violation of this chapter or any crime constituting a felony related to theft, bribery, or gambling, unless at least ten (10) years have passed since satisfactory completion of the sentence or probation imposed by the court for each conviction;

2. Has been convicted of any illegal gambling activity in this or any other jurisdiction, unless at least ten (10) years have passed since satisfactory completion of the sentence or probation imposed by the court for each conviction; or

3. Has made a statement of material fact to the Gaming Commission, knowing such statement to be false, unless at least ten (10) years have passed since the statement was made.

(b) Race, color, creed, national origin, ancestry, or sex shall not be grounds for placing the name of a person upon the list identified in this section.

(3) In addition to the foregoing, each electronic gaming licensee shall have the common law right to exclude or eject patrons or others, whether licensed, registered, or otherwise approved under this chapter, from the licensee's gaming establishment. The commission shall be notified of any such exclusion or ejection within three (3) days of such actions.

SECTION 27. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

When requested by the Gaming Commission, the Attorney General of the Commonwealth of Kentucky, or such assistant attorney general as he or she may designate, shall, without additional compensation, advise the Gaming Commission and represent it in all legal proceedings.

SECTION 28. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The Gaming Commission shall adopt such administrative regulations governing the operation of electronic gaming devices consistent with the provisions of this chapter as the Gaming Commission deems necessary in order that the operation of electronic gaming devices shall be initiated at the earliest feasible time after the effective date of this Act and shall produce the maximum amount of gaming income consistent with the dignity of the state and the protection of the public. The administrative regulations shall provide for all matters necessary for the secure, fair, efficient, and economical operation of electronic gaming devices consistent with the provisions of this chapter, including but not limited to the following:

(a) Licensing of electronic gaming device operators, electronic gaming device operations managers, electronic gaming device distributors, electronic gaming device employees, electronic gaming device manufacturers, and others to ensure the suitability of those permitted to own, lease, operate, work in, do business with, and invest in electronic gaming devices, including setting application fees and annual fees for licensing, but which application fees shall not exceed ten thousand dollars ($10,000) per application for electronic gaming device operators and electronic gaming device manufacturers, one hundred dollars ($100) per application for electronic gaming device operations managers and one hundred dollars ($100) per application for electronic gaming device distributors, and which annual fees for licensing shall not exceed ten dollars ($10) for electronic gaming device employees and others;

(b) Oversight and management of the Gaming Commission's central computer system for electronic gaming devices;

(c) Inspection and approval of electronic gaming devices and associated equipment, and adopting specifications and standards for electronic gaming devices and associated equipment, including hardware and software;

(d) Adopting reporting requirements for electronic gaming device operators, electronic gaming device employees, electronic gaming device manufacturers, and others as necessary to ensure secure operation of electronic gaming devices; and

(e) Examination of all accounts, bank accounts, financial statements, and records of any licensee in a licensee's possession or under its control and relating to the operation of electronic gaming devices.

(2) In adopting, amending, or repealing administrative regulations, the Gaming Commission shall comply with the provisions of KRS Chapter 13A.

SECTION 29. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Any other provision of law to the contrary notwithstanding, the Gaming Commission is authorized to implement and regulate the operation of electronic gaming devices exclusively by eligible associations at licensed racetracks at certain pari-mutuel racing facilities in this state in accordance with the provisions of this chapter. The Gaming Commission shall oversee the operation of electronic gaming devices to ensure that all applicable laws are administered for the protection of the public in accordance with the provisions of this chapter.

(2) The Gaming Commission, in addition to any other powers granted by this chapter, shall have the powers necessary and proper to carry out and effectuate the provisions of this chapter relating to electronic gaming devices, including the power to:

(a) Install and operate Gaming Commission-approved telecommunications lines to provide a direct communication between each electronic gaming device and the Gaming Commission's central computer system for the transmission to the Gaming Commission of relevant data;

(b) Link all electronic gaming devices to the Gaming Commission's central computer system to transmit relevant data using procedures approved by the Gaming Commission. The central computer system used by the Gaming Commission may not limit participation to only one (1) manufacturer of electronic gaming devices, and in no event shall any manufacturer account for more than fifty percent (50%) of available electronic gaming device games presented for play by any electronic gaming device operator;

(c) Employ necessary personnel to effectively carry out its responsibilities under this chapter;

(d) Conduct criminal background investigations on all applicants for licenses relating to electronic gaming device games under this chapter with any assistance, as necessary, from the Kentucky State Police. The Gaming Commission shall reimburse the Kentucky State Police for the actual costs of any investigative assistance provided;

(e) Provide for the allocation and disbursement of gaming income paid to the Gaming Commission as provided in Section 35 of this Act;

(f) Inspect all premises at which electronic gaming devices are operated or manufactured, sold or distributed, and inspect all related equipment and supplies at such premises;

(g) Demand access to and inspect, photocopy, and examine all papers, books, and records of any applicant or

licensee, on its premises or elsewhere as practicable, and in the presence of the applicant or licensee, or its agent, relating to the gaming income produced by the operation of electronic gaming devices, and other matters affecting the enforcement of the provisions of this chapter; and

(h) Submit quarterly and annual reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing financial statements which shall include, but not be limited to, the progress of implementing the operation of electronic gaming devices, the allocation and distribution of gaming income and Gaming Commission expenses relating to the electronic gaming devices.

SECTION 30. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) An electronic gaming device manufacturer and a electronic gaming device distributor may not sell, lease, or otherwise transfer an electronic gaming device or associated equipment for placement at a licensed racetrack in this state unless the electronic gaming device and associated equipment have been approved by the Gaming Commission. Only electronic gaming device manufacturers or electronic gaming device operators may apply for approval of an electronic gaming device or associated equipment. The electronic gaming device manufacturer or the electronic gaming device operator shall submit to the Gaming Commission two (2) copies of electronic gaming device illustrations, schematics, block diagrams, circuit analysis, technical and operation manuals, and any other information requested by the Gaming Commission for the purpose of analyzing and testing the electronic gaming device or associated equipment.

(2) An electronic gaming device manufacturer or electronic gaming device operator which applies for approval as described in subsection (1) of this section shall pay all costs of testing, examination, analysis, and transportation of the prototypes of electronic gaming devices and associated equipment for which such application is made. The Gaming Commission may require that the electronic gaming device manufacturer or electronic gaming device operator provide specialized equipment or pay for the services of an independent technical expert to conduct the tests. If any electronic gaming device or associated equipment fails the acceptance test conducted by the Gaming Commission, the electronic gaming device manufacturer shall make all modifications required by the Gaming Commission.

(3) Each electronic gaming device and associated equipment approved for placement at a licensed racetrack shall conform to the exact specifications of the prototype tested and approved by the Gaming Commission. An electronic gaming device manufacturer or electronic gaming device operator shall not change the assembly or operational functions of an electronic gaming device or associated equipment licensed for placement in this state unless a request for modification of an existing prototype is approved by the Gaming Commission. The request shall contain a detailed description of the type of change, the reasons for the change, and technical documentation of the change. If any electronic gaming device or associated equipment which has not been approved by the Gaming Commission is supplied by a manufacturer and operated by a licensed racetrack, the Gaming Commission shall direct that the use of that licensed racetrack's and manufacturer's noncomplying electronic gaming devices and associated equipment cease immediately.

(4) In those cities, counties, urban-county governments, charter county governments, or consolidated local governments which have engaged in planning operations pursuant to KRS Chapter 100, facilities developed for the activities contemplated by this chapter shall be deemed to be permitted accessory uses to licensed racetracks without further approval from the applicable planning unit or body whether or not such facilities are specifically cited in the applicable zoning regulations. These facilities shall also be deemed to be permitted uses in all zones in which the applicable zoning regulations allow licensed racetracks, subject only to the permitting requirements and conditions upon which racetracks are allowed, whether or not these facilities are specifically cited in such regulations and whether or not these facilities are located on the same premises as a licensed racetrack.

SECTION 31. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Application for any license under this chapter shall be made to the Gaming Commission on forms furnished by the Gaming Commission and in accordance with administrative regulations adopted by the Gaming Commission. Not later than fifteen (15) days after the effective date of this Act, the Gaming Commission shall have taken all actions necessary to furnish application forms to applicants, and to cause the Gaming Commission and its staff to be prepared to receive, process, and act upon these applications.

(2) The application for a license shall include:

(a) The name of the proposed licensee;

(b) In the case of an electronic gaming device operator, the location of the proposed operation;

(c) In the case of an electronic gaming device operator, the electronic gaming devices to be operated; and

(d) Such other information and details as the Gaming Commission may require.

(3) The Gaming Commission shall furnish to the applicant supplemental forms which the applicant shall complete and file with the application. The supplemental forms shall require, but shall not be limited to, complete information and details with respect to the applicant's criminal record, business activities, financial affairs and business associates, covering at least a ten (10) year period immediately preceding the date of filing of the application.

(4) In the case of an electronic gaming device operator, the applicant shall also submit to the Gaming Commission a copy of the application previously submitted to the Racing Commission for licensure as a racetrack under KRS Chapter 230, and a copy of the license that was subsequently issued by the Racing Commission, and the Gaming Commission shall

keep confidential all matters or material contained therein required to be kept confidential by the Racing Commission pursuant to KRS Chapter 230.

(5) Upon a determination by the Gaming Commission of the suitability of the applicant based on criteria established in this chapter, the Gaming Commission shall issue the requested license.

SECTION 32. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) No license shall be granted under this chapter unless the Gaming Commission has determined that the applicant satisfies all of the following qualifications:

- *(a) An applicant for a electronic gaming device operator license shall be an eligible association which holds a valid license as a racetrack under KRS Chapter 230;*
- *(b) An applicant for any license under this chapter shall be a person of good character and integrity;*
- *(c) An applicant for any license under this chapter shall be a person whose background, including criminal record, reputation, and associations, does not pose a threat to the security and integrity of electronic gaming device games or to the public interest of the state. All new applicants for licenses issued by the Gaming Commission shall furnish fingerprints for a national criminal records check by the Gaming Commission or its division of security and the Federal Bureau of Investigation. Investigative assistance may be provided by the Kentucky State Police in accordance with subsection (2)(d) of Section 29 of this Act. Fingerprints shall be furnished by all persons required to be named in the application and shall be accompanied by a signed authorization for the release of information by the Kentucky State Police and the Federal Bureau of Investigation. The Gaming Commission shall revoke the license of any person who is convicted of any of the violations or crimes referenced in this subsection;*
- *(d) No applicant shall be granted a license under this chapter who:*
  - *1. Has been convicted of any violation of this chapter or any crime constituting a felony related to theft, bribery, or gambling, unless at least ten (10) years have passed since satisfactory completion of the sentence or probation imposed by the court for each conviction;*
  - *2. Has been convicted of any illegal gambling activity in this or any other jurisdiction, unless at least ten (10) years have passed since satisfactory completion of the sentence or probation imposed by the court for each conviction; or*
  - *3. Has made a statement of material fact to the Gaming Commission, knowing such statement to be false, unless at least ten (10) years have passed since the statement was made.*
- *(e) An applicant for any license under this chapter shall demonstrate the business ability and experience necessary to establish, operate, and maintain the business for which the license application is made which, with respect to an electronic gaming device operator, may be demonstrated through the retention of an electronic gaming device operations manager;*
- *(f) An applicant for any license under this chapter shall have secured adequate financing for the business for which the license application is made. The Gaming Commission shall determine whether financing is adequate to support the successful performance of the duties and responsibilities of the licensee. An applicant for an electronic gaming device operator license shall disclose all financing or refinancing arrangements for the purchase, lease, or other acquisition of electronic gaming devices and associated equipment in the degree of detail requested by the Gaming Commission. An electronic gaming device operator shall request Gaming Commission approval of any change in financing or lease arrangements for the purchase, lease, or other acquisition of electronic gaming devices and associated equipment at least thirty (30) days before the effective date of the change and the Gaming Commission shall act upon such application within thirty (30) days after receipt of such request; and*
- *(g) An applicant for an electronic gaming device operator license or a license renewal shall file with the Gaming Commission a copy of any current or proposed agreement between the applicant and any manufacturer for the sale, lease, or other transfer to the racetrack of electronic gaming devices and associated equipment.*

(2) No license shall be granted to an applicant for any license under this chapter until the Gaming Commission determines that each person who has control of the applicant meets all applicable qualifications of subsection (1) of this section.

(3) An applicant for any license under this chapter shall furnish all information, including financial data and documents, certifications, consents, waivers, individual history forms, and other materials necessary for the purpose of determining qualifications for a license. No license shall be granted to an applicant who fails to provide this information and documentation. The burden of proving qualification for any license is on the applicant.

(4) An applicant for any license under this chapter bears all risks of adverse public notice, embarrassment, criticism, damages, or financial loss which may result from the disclosure or publication of any material or information obtained by the Gaming Commission pursuant to action on an application. The applicant shall, as a part of its application, expressly waive any and all claims against the Gaming Commission, the Commonwealth of Kentucky, and the employees of either for damages as a result of any background investigation, disclosure, or publication relating to an

application for a license under this chapter.

(5) All application, registration, and disclosure forms and other documents submitted to the Gaming Commission by or on behalf of the applicant for the purpose of determining qualification for a license shall be sworn to or affirmed before an officer qualified to administer oaths.

(6) An applicant for any license under this chapter who knowingly fails to reveal any fact material to qualification or who knowingly submits false or misleading material information is ineligible for the license.

(7) Two (2) or more eligible associations which operate racetracks in the same county may enter an agreement to operate a joint electronic gaming device facility at the licensed racetrack of either association and may apply for and be granted a joint license under this chapter. The agreement between the associations may address such matters as the associations deem appropriate, including the location of the facility, responsibility for management of the facility, and the allocation of prize moneys and expenses between the associations.

SECTION 33. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Each electronic gaming device operator license issued by the Gaming Commission to an eligible association shall be subject to the following qualifications and limitations:

(a) Electronic gaming devices shall be located only on the premises of a racetrack owned and/or leased and operated by an eligible association.

(b) Except as described in paragraphs (c) and (d) of this subsection, any eligible association which desires to operate electronic gaming devices shall during each year make application to the Racing Commission for and receive no less than one hundred percent (100%) of the number of racing days awarded to the racetrack in 2001 and one hundred percent (100%) of the number of races scheduled to be run by the racetrack in 2001.

(c) Any eligible association may apply for and/or receive less than one hundred percent (100%) of the number of racing days awarded to the racetrack in 2001 or one hundred percent (100%) of the number of races scheduled to be run by the racetrack in 2001, only if written approval is obtained from the Kentucky Division of the Horsemen's Benevolent and Protective Association and the Kentucky Thoroughbred Owners and Breeders Association, Inc., or their successors, for thoroughbred races, and the Kentucky Harness Horsemen's Association, or its successor, for standardbred racing.

(d) Notwithstanding paragraphs (b) and (c) of this subsection, in any year in which the calendar makes the requirements in paragraphs (b) and (c) of this subsection difficult to carry out in their entirety, a slight variation of those requirements may be granted by the Racing Commission when racing days are awarded in order to comply with the calendar requirements.

(2) An electronic gaming device operator license shall be valid for a period of four (4) years, unless revoked prior to its expiration by the Gaming Commission.

(3) An application for an electronic gaming device operator license may be denied, or an electronic gaming device operator license issued to a licensee may be revoked or not renewed, only for the following causes:

(a) The applicant does not meet or the licensee has ceased to meet the requirements for issuance of an electronic gaming device operator license;

(b) The licensee has committed fraud in securing an electronic gaming device operator license;

(c) The applicant or the licensee has made a material misrepresentation of fact on an application for an electronic gaming device operator license or license renewal;

(d) The license to conduct horse racing issued under KRS Chapter 230 has been suspended, revoked, or denied;

(e) Gaming income generated through the operation of electronic gaming devices has not been remitted to the Gaming Commission in accordance with Section 35 of this Act;

(f) The licensee has tampered with an electronic gaming device game or electronic gaming device by any means, including the use of an electronic, electrical, or mechanical device, which is designed, constructed, or programmed specifically for use in obtaining an advantage at playing any electronic gaming device game; or

(g) The licensee has engaged in an activity which is a violation of a provision of this chapter or an administrative regulation promulgated under this chapter, the nature of which would render the licensee unsuitable to continue to operate as a licensed electronic gaming device operator.

(4) An electronic gaming device operator license shall not be transferred without the prior approval of the Gaming Commission. Any one transaction or series of transactions in any twelve (12) month period which results in a change of control of the electronic gaming device operator shall be deemed a transfer, and shall require the purchasing person or entity to file with the Gaming Commission such suitability applications as are required by the Gaming Commission. If all such applications have been filed and the Gaming Commission does not object to the transfer within thirty (30) days the transfer may be consummated, subject to the right of the Gaming Commission to order the purchasing person or entity to divest its interest on terms prescribed by the Gaming Commission, if the purchasing person or entity is found not suitable after investigation and a hearing. Any order of divestment shall contain terms that will protect the ongoing operations of the electronic gaming device operator.

(5) The total number of electronic gaming device operator licenses issued at any one time by the Gaming Commission shall not exceed eight (8). Only one (1) license shall be issued to a licensed racetrack; provided, if any eligible association owns and operates more than one (1) licensed racetrack, the eligible association may apply for and be issued a license for each of these racetracks.

SECTION 34. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Electronic gaming devices may be purchased, leased, or otherwise acquired only by an electronic gaming device operator and shall be obtained only from electronic gaming device manufacturers or electronic gaming device distributors licensed by the Gaming Commission.

(2) Each electronic gaming device operator shall be responsible for the following:

(a) Installation and maintenance of the electronic gaming devices and associated equipment which it operates, including the cost of any necessary capital improvements;

(b) The security and safekeeping of the electronic gaming devices and associated equipment which it operates;

(c) Coordination of its electronic gaming devices and associated equipment with the Gaming Commission's central computer system;

(d) Incorporation of multifunction electronic gaming devices and associated equipment which are able to conduct both electronic gaming device games and pari-mutuel wagering on horse racing;

(e) The hiring of adequate personnel to ensure compliance with the provisions of this chapter relating to the operation of electronic gaming devices, including sufficient security personnel to protect and secure electronic gaming devices and monitor access to the area where the electronic gaming devices are located;

(f) Reporting promptly to the electronic gaming device manufacturer and the Gaming Commission all electronic gaming device malfunctions and notifying the Gaming Commission of the failure of an electronic gaming device manufacturer or service technician to provide prompt service and repair of malfunctioning electronic gaming devices and associated equipment;

(g) Providing adequate training for all personnel who interact with patrons in electronic gaming device areas to report suspected pathological gamers to supervisors. The training, at a minimum, shall consist of information concerning the nature and symptoms of pathological gaming behavior, the causes and known risks of such behavior, and assisting patrons in obtaining information about pathological gaming and available options for seeking assistance for such behavior; provided, nothing in this section shall require an electronic gaming device operator, the Gaming Commission, the Racing Commission, or their employees or agents to identify persons with problem or compulsive gaming problems which is an activity that requires medical and clinical expertise; and provided further, neither the state, the Gaming Commission, the Racing Commission, an electronic gaming device operator, or their agents or employees shall be liable to any person as a result of implementing the provisions in this section, any related regulations, or any other responsible gaming programs required by or on behalf of the state, the Gaming Commission, the Racing Commission, an electronic gaming device operator, or their agents or employees;

(h) Adopting procedures for distributing or posting within the facility information that promotes public awareness about underage, problem gaming and provides information on available services and resources;

(i) Remitting to the Gaming Commission gaming income in accordance with Section 35 of this Act; and

(j) Operating electronic gaming devices in conformity with the provisions of this chapter and all administrative regulations promulgated under this chapter.

(3) Each electronic gaming device operator shall determine the following pertaining to the electronic gaming devices located on its premises:

(a) Number of electronic gaming devices;

(b) Dates and hours during which the electronic gaming devices are available for play. Electronic gaming devices may be operated on the premises of an electronic gaming device operator even when the racetrack is not conducting pari-mutuel wagering on races;

(c) Mix of games available for play on the electronic gaming devices, including progressive games;

(d) Utilization of coins, currency, tokens, vouchers, electronic credits, or scrip;

(e) Location and movement of electronic gaming devices on the premises;

(f) Staffing of electronic gaming device operations on the premises;

(g) The minimum and maximum betting amounts; and

(h) The payout based upon a suitable range as determined by the electronic gaming device operator, with a minimum of eighty percent (80%) and a maximum of ninety-seven percent (97%).

(4) Each electronic gaming device operator shall provide to the Gaming Commission and the Racing Commission access to all records of the licensee and the physical premises where the electronic gaming device operator's electronic gaming device activities occur for the purpose of monitoring or inspecting the electronic gaming device operator's

activities and the electronic gaming devices and associated equipment.

SECTION 35. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The portion of the annual gaming income for each calendar year of each electronic gaming device operator specified in paragraph (a) of this subsection shall be paid to the Gaming Commission as specified in paragraph (b) of this subsection, and shall be allocated and distributed by the Gaming Commission as specified in subsection (1)(c) to (f) of this section.

(a) A percentage of the annual gaming income shall be paid to the Gaming Commission, based on the following range:

1. Twenty-eight percent (28%) of the annual gaming income not exceeding fifty million dollars ($50,000,000);

2. Thirty-six and forty-four one hundredths percent (36.44%) of the annual gaming income exceeding fifty million dollars ($50,000,000) but not exceeding one hundred million dollars ($100,000,000);

3. Thirty-nine and forty-four one hundredths percent (39.44%) of the annual gaming income exceeding one hundred million dollars ($100,000,000) but not exceeding one hundred fifty million dollars ($150,000,000);

4. Forty and forty-four one hundredths percent (40.44%) of the annual gaming income exceeding one hundred fifty million dollars ($150,000,000) but not exceeding two hundred million dollars ($200,000,000); and

5. Forty-one and forty-four one hundredths percent (41.44%) of the annual gaming income exceeding two hundred million dollars ($200,000,000).

(b) On or before the third business day of each week, each electronic gaming device operator shall pay to the Gaming Commission a percentage of the gaming income collected by the electronic gaming device operator during the preceding week, such percentage to be determined as specified in paragraph (a) of this subsection by reference to the cumulative amount of gaming income collected by the electronic gaming device operator during the current calendar year, through the last day of such preceding week.

(c) The funds described in paragraph (a) of this subsection shall be applied first, to the administrative costs and expenses of the Gaming Commission relating to electronic gaming device games including, but not limited to, administrative expenses and payroll and other employment costs attributable to the regulation of electronic gaming device games by the Gaming Commission, and expenses attributable to operation of the central computer system.

(d) After payment of the costs and expenses described in paragraph (c) of this subsection, an amount equal to twenty-five one hundredths of one percent (0.25%) of the annual gaming income shall be dedicated for local economic development and shall be distributed by the Gaming Commission as follows:

1. If the electronic gaming device operator is located in an incorporated area, fifty percent (50%) shall be distributed to the governing body of the city in which the racetrack is located, and fifty percent (50%) to the governing body of the county in which the racetrack is located.

2. If the electronic gaming device operator is located in an unincorporated area, fifty percent (50%) shall be distributed to the governing body of the largest city in the county in which the racetrack is located, and fifty percent (50%) to the governing body of the county in which the racetrack is located.

3. Notwithstanding subparagraphs 1. and 2. of this paragraph, if the electronic gaming device operator is located within a county that has adopted the urban-county form of government as provided in KRS Chapter 67A, one hundred percent (100%) shall be distributed to the governing body of the urban-county government, and if the electronic gaming device operator is located within a county containing a consolidated local government as provided in KRS Chapter 67C, one hundred percent (100%) shall be distributed to the governing body of the consolidated local government.

(e) After payment of the costs and expenses described in paragraph (c) of this subsection, an amount equal to five one hundredths of one percent (.05%) of the annual gaming income shall be deposited by the Gaming Commission in a trust and revolving fund, to be known as the problem gambling fund. This fund shall be administered by the Problem Gambling Fund Committee. The Problem Gambling Fund Committee shall be composed of not less than four (4) members, with one-half (1/2) of the members appointed by the Kentucky Association for Problem Gaming, or its successor, and one-half (1/2) of the members appointed by the Gaming Commission. Funds deposited in the problem gambling fund shall be made available by the committee to fund the development and operation of problem gambling education, prevention, and treatment programs. The committee shall strive to allocate funds as they are generated so that, after an appropriate needs assessment, all available funds are allocated on a current basis.

(f) All funds described in paragraph (a) of this subsection that are not applied or distributed by the Gaming Commission as provided in paragraphs (c) to (e) of this subsection shall be paid by the Gaming Commission into the general fund of the Commonwealth of Kentucky.

(2) The portion of the annual gaming income for each calendar year of each electronic gaming device operator specified in paragraph (a) of this subsection shall be allocated and distributed by the electronic gaming device operator solely for the purposes described in paragraphs (b) to (g) of this subsection.

(a) The portion of the gaming income to be so allocated and distributed by the electronic gaming device operator shall be a percentage of the annual gaming income, based upon the following range:

1. Ten percent (10%) of the annual gaming income not exceeding fifty million dollars ($50,000,000);

2. Eleven and seventy-eight one hundredths percent (11.78%) of the annual gaming income exceeding fifty million dollars ($50,000,000) but not exceeding one hundred million dollars ($100,000,000);

3. Fourteen and twenty-eight one hundredths percent (14.28%) of the annual gaming income exceeding one hundred million dollars ($100,000,000) but not exceeding one hundred fifty million dollars ($150,000,000);

4. Fourteen and seventy-eight one hundredths percent (14.78%) of the annual gaming income exceeding one hundred fifty million dollars ($150,000,000) but not exceeding two hundred million dollars ($200,000,000); and

5. Fifteen and twenty-eight one hundredths percent (15.28%) of the annual gaming income exceeding two hundred million dollars ($200,000,000).

(b) From the funds described in paragraph (a) of this subsection, each electronic gaming device operator which conducts thoroughbred racing shall retain an amount equal to fifty percent (50%) of such funds. Such retained amount shall be paid and applied as set forth in paragraph (e) of this subsection.

(c) From the funds described in paragraph (a) of this subsection, each electronic gaming device operator which conducts standardbred racing shall deposit an amount equal to ten percent (10%) of such funds to a sub-account of the purse fund of the electronic gaming device operator to be used to supplement standardbred races designated for horses that were sired by standardbred stallions domiciled in Kentucky.

(d) From the funds described in paragraph (a) of this subsection, each electronic gaming device operator which conducts thoroughbred racing shall allocate and distribute, as specified in this paragraph, an amount equal to fifty percent (50%) of such funds. The electronic gaming device operator shall pay or retain, to each eligible association (including the electronic gaming device operator) which conducted a live thoroughbred race meeting at any time during the immediately preceding calendar year an amount equal to that portion of the amount described in this paragraph that corresponds to the ratio of the total association purses paid by the eligible association in the immediately preceding calendar year (not including any portion of these purses paid from funds received under this paragraph and paragraph (b) of this subsection) compared to the total association purses paid in the immediately preceding calendar year by all eligible associations conducting thoroughbred race meetings in the immediately preceding calendar year (not including any portion of such purses paid from funds received under this paragraph and paragraph (b) of this subsection). Notwithstanding the foregoing, eligible associations which are parties to an agreement entered into pursuant to subsection (7) of Section 32 of this Act may agree to allocate amongst themselves amounts received by them under this paragraph.

(e) The funds retained or received by a electronic gaming device operator under paragraph (b) and paragraph (d) of this subsection shall be allocated by the electronic gaming device operator as follows:

1. A percentage of such funds, not less than ten percent (10%) but not to exceed forty percent (40%), as designated by the Kentucky Thoroughbred Development Fund Advisory Committee established pursuant to KRS 230.400, shall be paid as Kentucky thoroughbred development fund purse supplements;

2. A percentage of such funds, not less than ten percent (10%) but not to exceed twenty percent (20%), as designated by the Kentucky Thoroughbred Development Fund Advisory Committee, shall be paid as Kentucky thoroughbred claiming fund purse supplements;

3. The remaining amount of these funds shall be allocated to the purse money paid at race meetings conducted by the electronic gaming device operator.

4. This chapter hereby establishes a trust and revolving fund for the Racing Commission, designated as the Kentucky thoroughbred claiming fund, consisting of money allocated to the fund under the provisions of this chapter. Money to the credit of the Kentucky thoroughbred claiming fund shall be distributed by the State Treasurer for the purposes of this chapter upon authorization of the Racing Commission and upon approval of the secretary of the Finance and Administration Cabinet. Money to the credit of the Kentucky thoroughbred claiming fund at the end of each fiscal year shall not lapse, but shall be carried forward in this fund to the succeeding fiscal year. The Kentucky thoroughbred claiming fund shall be governed by the same administrative rules and regulations as apply to the Kentucky thoroughbred development fund, as may be supplemented by the Racing Commission.

(f) From the funds described in paragraph (a) of this subsection, and after subtraction of the amount applied pursuant to paragraph (c) of this subsection, each electronic gaming device operator which conducts standardbred racing shall deposit the balance of these funds to the purse fund of such electronic gaming device

operator to be used exclusively to supplement purse money paid at race meetings conducted by the electronic gaming device operator. Unless otherwise provided in an agreement entered into pursuant to subsection (7) of Section 32 of this Act, if the funds to be so applied to purses exceed an average of one hundred fifty thousand dollars ($150,000) per day of live racing, then the electronic gaming device operator shall cooperate with the Harness Horsemen's Association in making application to the Racing Commission for additional live racing dates for the following year; or the electronic gaming device operator may assign a portion of these funds, not to exceed thirty percent (30%), to another licensed standardbred track which was licensed by the Racing Commission to conduct standardbred racing prior to January 1, 2001, and is conducting electronic gaming device gaming, to support the purse fund of such track; or by agreement with the Kentucky Harness Horsemen's Association, the electronic gaming device operator may increase the funds to be so applied above one hundred fifty thousand dollars ($150,000) per day.

(g) The funds allocated and distributed under paragraphs (c) and (f) of this subsection shall be applied only to standardbred racing purses, regardless of the breed of racing conducted at a facility licensed to conduct standardbred racing.

(3) The portion of the gaming income of each electronic gaming device operator not paid to the Gaming Commission as provided in subsection (1) of this section and not allocated and distributed by the electronic gaming device operator as provided in subsection (2) of this section shall be retained by the electronic gaming device operator, which shall allocate and distribute the funds as specified in paragraphs (b) to (d) of this subsection.

(a) The amounts of annual gaming income for each calendar year of each electronic gaming device operator to be allocated and distributed pursuant to this subsection are calculated as follows:

1. Sixty-two percent (62%) of the annual gaming income not exceeding fifty million dollars ($50,000,000);

2. Fifty-one and seventy-eight one hundredths percent (51.78%) of the annual gaming income exceeding fifty million dollars ($50,000,000) but not exceeding one hundred million dollars ($100,000,000);

3. Forty-six and twenty-eight one hundredths percent (46.28%) of the annual gaming income exceeding one hundred million dollars ($100,000,000) but not exceeding one hundred fifty million dollars ($150,000,000);

4. Forty-four and seventy-eight one hundredths percent (44.78%) of the annual gaming income exceeding one hundred fifty million dollars ($150,000,000) but not exceeding two hundred million dollars ($200,000,000); and

5. Forty-three and twenty-eight one hundredths percent (43.28%) of the annual gaming income exceeding two hundred million dollars ($200,000,000).

(b) An amount equal to twenty-five hundredths of one percent (.25%) of annual gaming income shall be spent by the electronic gaming device operator for capital improvements to its backside racing facilities. On or before February 1 of each year, the electronic gaming device operator shall provide a written statement to the Racing Commission, certified by an officer of the electronic gaming device operator, providing an accounting of the funds expended under this paragraph. As used in this paragraph, "capital improvement" means any addition, replacement, or remodeling of a structural unit of the backside of a racetrack, as defined in KRS 230.218, including but not limited to the construction of barns used for the racetrack, backstretch facilities for horsemen, paddock facilities, the installation of permanent new heating or air conditioning, and installations of a permanent nature forming a part of the backside of the track.

(c) An amount equal to one-tenth of one percent (0.1%) of annual gaming income shall be paid by the electronic gaming device operator to the horsemen's groups representing the horsemen of the electronic gaming device operator's racetrack, as follows:

1. In the case of electronic gaming device operators which conduct thoroughbred racing, fifty percent (50%) to the Kentucky Division of the Horsemen's Benevolent and Protective Association, or its successor, and fifty percent (50%) to the Kentucky Thoroughbred Owners and Breeders Association, or its successor; and

2. In the case of electronic gaming device operators which conduct standardbred racing, to the Kentucky Harness Horsemen's Association.

(d) All funds described in this subsection that are not applied or distributed as provided in paragraphs (b) or (c) of this subsection shall be applied first to the operating expenses incurred by the electronic gaming device operator, including but not limited to costs of payroll, equipment purchase or lease, supplies, advertising and promotions, training of employees, uniforms, utilities, insurance, depreciation, and other reasonable expenses of operating electronic gaming devices, and second to any other lawful costs, expenditures, and expenses of the racetrack in Kentucky.

(4) On or before the third business day of each week, each electronic gaming device operator shall provide a written statement to the Gaming Commission and to the Racing Commission, certified by an officer of the electronic gaming device operator, providing an accounting of the funds paid, allocated, and distributed under subsections (1)(b), (2)(b), (2)(c), (2)(d), (2)(e), and (2)(f) of this section.

(5) For purposes of subsections (1), (2), and (3) of this section, each of the associations jointly licensed to operate an electronic gaming device facility pursuant to this chapter shall be treated as an individual electronic gaming device operator having annual gaming income equal to the total annual gaming income for the jointly licensed facility divided by the number of associations jointly licensed to operate the facility. The jointly licensed facility may file a single statement for the joint facility in compliance with subsection (4) of this section provided that the payments, allocations, and distributions applicable to each association are reflected separately in the statement.

SECTION 36. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Each electronic gaming device operator shall file with the Gaming Commission a report of each change in its officers, directors, and any other senior management employee of the electronic gaming device operator required to be licensed pursuant to the chapter. The Gaming Commission shall have thirty (30) days within which to approve or disapprove such change. During such thirty (30) day period and thereafter if the Gaming Commission does not disapprove the change, the officer or director or other person required to be so licensed shall be entitled to exercise any powers of the office or position to which he or she was so elected or appointed.

(2) The Gaming Commission may require that each electronic gaming device operator furnish the Gaming Commission with a copy of its federal income tax return within thirty (30) days after the return is filed with the Internal Revenue Service, and if this tax return is provided the Gaming Commission shall keep the tax return confidential.

(3) Each electronic gaming device operator shall adopt an internal control system which shall include but not be limited to provisions for:

(a) The safeguarding of its assets and revenues relating to electronic gaming device games, especially the recording of cash and evidences of indebtedness; and

(b) The maintenance of reliable accounts and records of transactions, operations, and events relating to electronic gaming device games.

(4) The internal control system shall be designed to reasonably ensure that:

(a) Assets relating to the operation of electronic gaming devices are safeguarded;

(b) Financial records relating to the operation of electronic gaming devices are accurate and reliable;

(c) Transactions relating to the operation of electronic gaming devices are performed only in accordance with management's general or specific authorization;

(d) Transactions relating to the operation of electronic gaming devices are recorded adequately to permit proper reporting of gaming income and of fees and taxes, and to maintain accountability for assets;

(e) Access to assets relating to the operation of electronic gaming devices is permitted only in accordance with management's specific authorization;

(f) Recorded accountability for assets relating to the operation of electronic gaming devices is compared with actual assets at reasonable intervals and appropriate action is taken with respect to any discrepancies; and

(g) Functions, duties, and responsibilities relating to the operation of electronic gaming devices are appropriately segregated and performed in accordance with sound practices by competent, qualified personnel.

(5) An audit of the books and records of each electronic gaming device operator relating to the operation of electronic gaming devices shall be performed by an independent, certified public accountant who meets the qualifications to do business within the Commonwealth of Kentucky at the close of each electronic gaming device operator's fiscal year. The audit shall be conducted in accordance with generally accepted accounting procedures, shall be paid for by the electronic gaming device operator, and shall be completed within ninety (90) days after the close of the fiscal year. A copy of the audit report shall be submitted by the electronic gaming device operator to the Gaming Commission and the Racing Commission within ten (10) days after receipt of the report from the accountant.

SECTION 37. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) A person shall not be employed as an electronic gaming device employee unless the person holds a valid license issued by the Gaming Commission in accordance with this chapter and administrative regulations adopted by the Gaming Commission. An electronic gaming device employee shall also be licensed by the Racing Commission. The Gaming Commission and the Racing Commission shall be authorized to issue temporary licenses in connection with efforts to facilitate the initiation of electronic gaming device games at the earliest feasible time as provided in Section 31 of this Act.

(2) An electronic gaming device manufacturer shall not sell, lease, or otherwise transfer any electronic gaming device in this state unless the manufacturer holds a valid license issued by the Gaming Commission in accordance with this chapter and regulations adopted by the Gaming Commission.

(3) The Gaming Commission may require the licensing of any person who furnishes services or property to an electronic gaming device operator under any arrangement under which the person receives payments based on earnings, profits, or receipts from electronic gaming device games. The Gaming Commission may require any such person to comply with the requirements of this chapter and with the administrative regulations of the Gaming Commission. If the Gaming Commission determines that any such person is unsuitable, it may require the arrangement to be terminated

without liability on the part of an electronic gaming device operator, its agents, or employees.

(4) All electronic gaming device operators and electronic gaming device manufacturers shall:

(a) Promptly report to the Gaming Commission any facts or circumstances related to the operation of electronic gaming devices which constitute a violation of state or federal law;

(b) Conduct all electronic gaming device activities and operations in a manner that does not pose a threat to the public health, safety, or welfare of the citizens of this state, and which does not adversely affect the security and integrity of electronic gaming device games;

(c) Hold the Gaming Commission, the Racing Commission and this state harmless from and defend and pay for the defense of any and all claims which may be asserted against such electronic gaming device operator, electronic gaming device manufacturer, the Gaming Commission, the Racing Commission, the state or the employees thereof, arising from the licensee's participation in the electronic gaming device gaming activities authorized by this chapter;

(d) Assist the Gaming Commission in maximizing electronic gaming device revenues; and

(e) Maintain all records required by the Gaming Commission and the Racing Commission.

(5) All electronic gaming device manufacturers shall:

(a) Manufacture electronic gaming devices and associated equipment for placement in this state in accordance with the requirements specified in administrative regulations adopted by the Gaming Commission;

(b) Manufacture electronic gaming devices and associated equipment to ensure timely delivery to electronic gaming device operators;

(c) Maintain and provide an inventory of spare parts to assure the timely repair and continuous operation of electronic gaming devices placed and intended for placement in this state;

(d) Provide to electronic gaming device operators and service technicians technical assistance and training in the service and repair of electronic gaming devices and associated equipment to ensure the continued, authorized operation of electronic gaming devices; and

(e) Obtain certification of compliance under the applicable regulations of the Federal Communications Commission for all electronic gaming devices placed in this state.

(6) All service technicians shall:

(a) Maintain all skills necessary for the timely repair and service of electronic gaming devices and associated equipment to ensure the continued, approved operation of electronic gaming devices;

(b) Attend all meetings, seminars, and training sessions mandated by the Gaming Commission involving the repair and maintenance of electronic gaming devices and associated equipment; and

(c) Promptly notify the Gaming Commission of any electronic or mechanical electronic gaming device malfunctions.

(7) All validation managers shall:

(a) Maintain all skills necessary for the accurate validation and handling of coins at processing stations;

(b) Attend all meetings, seminars, and training sessions mandated by the Gaming Commission involving the validation and redemption of electronic gaming device winnings; and

(c) Supervise the handling of coins at processing stations.

(8) All floor attendants shall:

(a) Provide change and assistance to persons playing electronic gaming device games on the premises of a licensed electronic gaming device operator; and

(b) Open electronic gaming device access doors to clear bill jams.

SECTION 38. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) No person younger than twenty-one (21) years of age shall:

(a) Play, be allowed to play, place wagers, or collect winnings, whether personally or through an agent, from any electronic gaming devices authorized under this chapter; or

(b) Be employed as an electronic gaming device employee; or

(c) Loiter in areas where electronic gaming devices are located.

(2) Electronic gaming device operators shall take affirmative steps to ensure that minors will not have access to electronic gaming devices.

SECTION 39. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

In the event of a disagreement between the Gaming Commission and the Racing Commission with regard to their respective duties or responsibilities in carrying out the purposes of this chapter, the disagreement shall be resolved by the secretary of the Governor's Executive Cabinet in a manner consistent with the provisions of this chapter.

SECTION 40. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly, in accordance with and in compliance with the provisions of Section 2 of the Act of Congress codified at 15 U.S.C. secs. 1171 to 1177, hereby declares and proclaims that Section 2 of that Act of Congress shall not apply to any gambling device in this state where the transportation of this device is specifically authorized by and done in compliance with the provisions of this chapter, any other applicable statute of this state, and any regulations adopted pursuant thereto, and that any such gambling device transported in compliance with state law and regulations shall be exempt from the provisions of that Act of Congress.

(2) All shipments into this state of electronic gaming devices, the registering, recording, and labeling of which has been duly made by the manufacturer or dealer in accordance with Sections 3 and 4 of that Act of Congress, codified at 15 U.S.C. secs. 1173 to 1174, shall be deemed legal shipments into this state.

SECTION 41. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Any person who influences or attempts to influence the winning of a prize through the use of coercion, fraud, deception, or tampering with an electronic gaming device or any electronic gaming device associated equipment shall be guilty of a Class B felony.

(2) Any person who knowingly provides false or intentionally misleading information to the Gaming Commission or the Racing Commission in connection with an application for any license relating to electronic gaming devices pursuant to this chapter shall be fined not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), and shall be guilty of a Class D felony.

(3) Unless the Gaming Commission shall have promulgated administrative regulations governing its procurements under this chapter, the provisions of KRS 45A.990(1) to (8) shall be deemed to apply to procurement activities conducted under this chapter which are governed by KRS Chapter 45A. If the Gaming Commission has promulgated administrative regulations governing its procurements, any person who willfully violates the administrative regulations shall be guilty of a Class A misdemeanor.

(4) Any person who knowingly allows a person under twenty-one (21) years of age to enter an age-restricted area containing electronic gaming devices shall be guilty of a violation for the first offense and for each subsequent offense shall be guilty of a Class B misdemeanor. In any prosecution for a violation of the provisions of this section, it shall be a defense that the person charged with the violation had a reasonable and good faith basis to believe that the person was at least twenty-one (21) years of age.

(5) Any person who, while an electronic gaming device game is being played at a licensed electronic gaming device operator, uses, or assists another in the use of, an electronic, electrical, or mechanical device which is designed, constructed, or programmed specifically for use in obtaining an advantage at playing any electronic gaming device game shall be guilty of a Class B felony.

(6) Any licensed electronic gaming device operator who knowingly places an electronic gaming device into play without authority of the Gaming Commission to do so shall be guilty of a violation for the first offense and for each subsequent offense shall be guilty of a Class B misdemeanor.

(7) Any person who operates, carries on, or exposes for play an electronic gaming device after the person's license as an electronic gaming device operator has expired and prior to the actual renewal thereof shall be guilty of a Class B misdemeanor.

(8) Any licensed electronic gaming device operator who possesses any electronic gaming device which the licensee knows has been manufactured, distributed, sold, tampered with, or serviced in violation of the provisions of this chapter or administrative regulations promulgated under this chapter shall be guilty of a Class B misdemeanor.

(9) If an agent of the Gaming Commission, an electronic gaming device operator or an electronic gaming device operations manager, or any employee or agent thereof, suspects a person of violating any provisions of this chapter or any other criminal laws of the state at a facility at which electronic gaming devices are operated, the person suspected of these violations may be detained at the facility by any such agent or employee until law enforcement officials arrive and take custody of the person, or may be ejected from the facility by any such agent or employee. Neither the Gaming Commission, the Commonwealth of Kentucky, an electronic gaming device operator or an electronic gaming device operations manager, or their agents or employees, shall be liable for any damages for any such detention or ejection or activity in connection therewith regardless of whether the person so detained or ejected, in fact, committed an offense.

Section 42. KRS 137.190 is amended to read as follows:

The~~[license tax imposed by KRS 137.170, the]~~ admission tax imposed by KRS 138.480, ~~[and]~~the state taxes and contributions imposed by KRS 138.510 to 138.550 and KRS 230.380 on pari-mutuel systems of betting***, and the amounts paid to the Kentucky Gaming Commission under Section 35 of this Act,*** shall be in lieu of all other license, excise, special, or franchise taxes to the state or any county, city, or other political subdivision. No county, city, or other political subdivision may levy any license, income, excise, special, or franchise tax on any such person or corporation engaged ***by an electronic gaming device operator*** in the business of conducting a race track at which races are conducted for stakes, purses, or prizes, or operating as a receiving track or simulcast facility, or on the operation or maintenance of any pari-mutuel machine***, electronic gaming device,*** or similar device, or on the money or amount of money handled by or through any pari-mutuel machine***, electronic gaming device,*** or similar device or on the sale of any merchandise during the conducting of races thereon by any such person***, Gaming Commission,*** or corporation.

Section 43. KRS 138.480 is amended to read as follows:

Except for the conduct of harness racing at a county fair, each person entering the grounds or enclosure of any race track at which a live race meeting is being conducted under the jurisdiction of the Kentucky Racing Commission, for the purpose of attending the races or for any other purpose connected therewith, shall pay a tax of fifteen cents ($0.15) to the state, except as otherwise provided in this section. If tickets good for more than one (1) day are issued, the sum of fifteen cents ($0.15) shall be paid by each person using such ticket on each day that it is used. No admission tax shall be collected from any of the employees of the race track, or any of the owners or trainers of horses, or jockeys, or their employees. The admission tax provided for in this section shall be collected by the race track from each person on entering the race track or enclosure on a paid[~~ or free~~] admission***, but shall not be required to be collected from or paid with respect to any person on entering the race track or enclosure on a free admission***. The race track shall account to and pay to the state the money so collected.

Section 44. KRS 230.260 is amended to read as follows:

The commission, in the interest of breeding or the improvement of breeds of horses, shall have all powers necessary and proper to carry out fully and effectually the provisions of this chapter including, but without limitation, the following:

(1) The commission is vested with jurisdiction and supervision over all horse race meetings in this Commonwealth and over all associations and all persons on association grounds and may eject or exclude therefrom or any part thereof, any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the commission, reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of horse racing or racing at horse race meetings; provided, however, no persons shall be excluded or ejected from association grounds solely on the ground of race, color, creed, national origin, ancestry, or sex;

(2) The commission, its representatives and employees, may visit, investigate and have free access to the office, track, facilities, or other places of business of any licensee for the purpose of satisfying itself that this chapter and its administrative regulations are strictly complied with;

(3) The commission shall have full authority to prescribe necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted in this state and to fix and regulate the minimum amount of purses, stakes, or awards to be offered for the conduct of any horse race meeting;

(4) Applications for licenses shall be made in the form, in the manner, and contain information as the commission may, by administrative regulation, require[~~. Fees for all licenses issued under KRS 230.310 shall be prescribed by and paid to the commission~~];

(5) The commission shall establish by administrative regulation minimum fees for jockeys to be effective in the absence of a contract between an employing owner or trainer and a jockey. The minimum fees shall be no less than those of July 1, 1985;

(6) Any of the foregoing administrative regulations, to the extent they are promulgated, shall be promulgated, amended, or repealed in conformity with KRS Chapter 13A;

(7) The commission may issue subpoenas for the attendance of witnesses before it and administer oaths to witnesses whenever, in the judgment of the commission, it is necessary to do so for the effectual discharge of its duties;

(8) The commission shall have authority to compel any racing association licensed under this chapter to file with the commission at the end of its fiscal year, a balance sheet, showing assets and liabilities, and an earnings statement, together with a list of its stockholders or other persons holding a beneficial interest in the association;

(9) The commission shall promulgate administrative regulations establishing safety standards for jockeys, which shall include the use of rib protection equipment. Rib protection equipment shall not be included in a jockey's weight***;***

(10) The commission shall have all powers necessary and proper to carry out fully and effectively its responsibilities relating to electronic gaming device games as described in KRS Chapter 230A, including the licensing of electronic gaming device employees, overseeing proceeds from electronic gaming device games as described in Section 35 of this Act for the promotion and betterment of the Kentucky horse industry, and promulgating such administrative regulations governing the integration of electronic gaming device games at racetracks as it deems necessary for the protection of the public.

Section 45. KRS 230.310 is amended to read as follows:

Every person not required to be licensed under KRS 230.300 who desires to participate in horse racing in the Commonwealth as a horse owner, trainer, jockey, apprentice jockey, agent, stable employee, racing official, association employee, or employee of a person or concern contracting with the association to provide a service or commodity and which requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, ***or electronic gaming device employee as defined in subsection (6) of Section 2 of this Act,*** shall first apply to the commission for a license to participate in the activity on association grounds during a race meeting. No person required to be licensed by this section may participate in any activity required to be licensed on association grounds during a race meeting without a valid license therefor. An applicant for a license shall submit to the commission fingerprints as may be required and other information necessary and reasonable for processing a license application. The commission is authorized to exchange fingerprint data with the Kentucky State Police and the Federal Bureau of Investigation in order to conduct a criminal history background check of an applicant. The commission may issue a license if it finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license, are consistent with the best interest of racing and the maintenance of the honesty, integrity, and high quality thereof. A license shall be issued for the calendar year in which it is issued and may be renewed by the commission. The license shall be valid at all horse race meetings in the Commonwealth during the period for which it is issued unless suspended or revoked under the administrative regulations promulgated by the commission under this chapter. With respect to horse owners and trainers, the commission may promulgate administrative regulations to facilitate and promote uniform, reciprocal licensing with other states.

Section 46. KRS 230.377 is amended to read as follows:

(1) Other provisions of the Kentucky Revised Statutes notwithstanding, a track may apply to the commission for simulcasting and intertrack wagering dates. Applications shall be submitted in accordance with KRS 230.300. The commission shall not approve the establishment or relocation of a receiving track within a radius of seventy-five (75) miles of a race track duly licensed as of July 15, 1992, without the prior written consent of the licensed track within whose seventy-five (75) mile radius the new receiving track would be located.

(2) On or before November 1 of each year, the commission shall meet and award intertrack wagering dates to all tracks for the entire succeeding calendar year. In a geographic area containing more than one (1) track within a fifty (50) mile radius of another track, intertrack wagering shall be limited to simulcasting and wagering on racing of the same breed of horse as the receiving track was licensed to race on or before July 15, 1998.

(3) The commission shall approve no more than nine (9) tracks for participation in horse racing, intertrack wagering, and simulcasting. Any approval by the commission of a change in location of these tracks shall be subject to the local-approval process contained in KRS 230.380.

(4) A track may by administrative regulation be required to simulcast its races to one (1) or more receiving tracks approved for simulcasting and intertrack wagering, as a prerequisite for the issuance of a license pursuant to KRS 230.300, provided that:

(a) Each track shall be permitted to exempt one (1) day of racing from simulcasting to both receiving tracks and simulcast facilities, at its discretion;

(b) Tracks in a county containing a city of the first class ***or a consolidated local government*** and tracks in an urban-county government shall not be required to simulcast to each other or to any other facility in those counties. This provision shall not be construed as requiring tracks within the same county to simulcast to each other; and

(c) In the absence of a contract between a host track and a receiving track, the commission shall be split as provided for in KRS 230.378(3).

(5) A track may receive simulcasts and conduct interstate wagering thereon subject to the following limitations which shall be in addition to the limitations set forth in KRS 230.3771:

(a) A track licensed to conduct thoroughbred racing may receive simulcasts and conduct interstate wagering on all thoroughbred horse races designated as graded stakes races by the Graded Stakes Committee of the Thoroughbred Owners and Breeders Association, Inc., without further consents or approvals.

(b) A track licensed to conduct harness racing may receive simulcasts and conduct interstate wagering on all harness horse races (both final and elimination) having a final purse in excess of seventy-five thousand dollars ($75,000) without further consents or approvals.

(c) A track which applies to the commission to receive an interstate race of a different breed than the breed for which it is licensed by the commission shall receive any simulcast of an interstate race through the intertrack wagering system upon approval by the commission. ***Notwithstanding the foregoing, a track licensed to conduct horse racing may receive simulcasts and conduct interstate wagering on quarter horse races, subject to the limitations of Section 47 of this Act.***

(d) A track may receive simulcasts of special event races conducted in other states or foreign countries which are determined by the commission to be of sufficient national or international significance or interest to warrant interstate wagering and if the simulcast of these races has been approved by the Kentucky Thoroughbred Owners and Breeders Association, Inc., the Kentucky Division of the Horseman's Benevolent and Protective Association, for thoroughbred races, and the Kentucky Harness Horsemen's Association for harness racing, and any track conducting live horse races of the same breed at the same time as the simulcast race.

(e) A track may also receive simulcasts and conduct interstate wagering on thoroughbred horse races other than those described in paragraphs (a) and (d) of this section if the simulcast of these races has been approved by the Kentucky Thoroughbred Owners and Breeders Association, Inc., and the Kentucky Horsemen's Benevolent and Protective Association, for thoroughbred races, and the Kentucky Harness Horsemen's Association, or its successor, for harness racing.

(f) The consent required by paragraph (e) of this subsection or by subsections (1)(g) and (2)(g) of KRS 230.3771 shall not be withheld:

1. For any reason not specifically related to financial harm to live horse racing; or

2. As a condition to the granting of any contractual or other concession not specifically related to the effects of interstate simulcasting on live horse racing in this Commonwealth, taken as a whole.

(g) A host track located in this state may receive simulcasting of not more than two (2) full cards of racing from another state, if both tracks race horses of the same breed and if:

1. The race date was previously granted by the Kentucky Racing Commission to conduct live racing at the track located in this state;

2. Live racing was canceled due to weather conditions; and

3. The consent required by subsection (5)(d) of this section is obtained.

(h) The in-state track receiving the simulcast specified in paragraph (g) of this subsection shall offer that simulcast to all participating tracks and simulcast facilities in the intertrack wagering system.

(i) All interstate simulcasting shall be conducted in accordance with applicable federal laws.

(6) The commission may promulgate necessary and reasonable administrative regulations for the purpose of administering the conduct of intertrack or interstate wagering and regulating the conditions under which wagering shall be held and conducted. Administrative regulations shall provide for the prevention of practices detrimental to the public interest and to impose penalties for violations. All administrative regulations shall be in conformity with the provisions of KRS Chapter 13A, KRS 138.510, and this chapter.

(7) Subsections (2) and (3) of this section shall apply only to intertrack wagering dates awarded for calendar year 1993 and thereafter, and any unresolved intertrack wagering dates for calendar year 1992 shall be awarded pursuant to applicable provisions of law in effect immediately prior to March 30, 1992.

Section 47. KRS 230.3771 is amended to read as follows:

(1) A thoroughbred track licensed to conduct thoroughbred racing may receive interstate simulcasts of thoroughbred horse races and conduct interstate wagering thereon, subject to the following limitations:

(a) A thoroughbred receiving track may receive interstate simulcasts of thoroughbred races and conduct interstate wagering thereon at any time of day and during any live thoroughbred horse race meet conducted in the Commonwealth of Kentucky so long as the thoroughbred receiving track conducting interstate wagering remits to the thoroughbred host track conducting a live meet, from the first awarded day of its live meet through the last awarded day of the same live meet, the amounts provided in paragraph (j) of this subsection.

(b) A thoroughbred host track which receives interstate simulcasts and conducts interstate wagering thereon during the period of time from the first awarded day of its live meet through the last awarded day of its live meet shall offer the simulcasts to all thoroughbred receiving tracks, all harness tracks not subject to the provisions of KRS 230.377(2), and all simulcast facilities through the intertrack wagering system.

(c) Except as otherwise prohibited by law, a receiving track shall conduct intertrack wagering on all live races of all thoroughbred host tracks on any day on which it receives an interstate simulcast for the purpose of conducting interstate wagering.

(d) No host track shall require that any receiving track or simulcast facility receive the interstate simulcast.

(e) If more than one (1) thoroughbred track conducts live racing at the same time on the same day, no track or simulcast facility may receive an interstate simulcast of thoroughbred races unless all thoroughbred tracks conducting live racing at the same time of day agree upon all interstate simulcasts to be received and the division of the thoroughbred host track's commission. If more than one (1) thoroughbred track conducts live racing at different times on the same day, the thoroughbred host track with the highest average daily handle, based on the preceding year, shall be the host track for purposes of splitting the commissions earned on interstate wagering at receiving tracks within the Commonwealth. For purposes of this subsection, average daily handle includes live handle, intertrack wagering handle, and simulcast facility handle. Also for purposes of this subsection, the time of day during which a host track conducts live racing commences with its first published post time and concludes ten (10) minutes after the published post time of its last race of the day, regardless of actual post times.

(f) Each thoroughbred track which desires to conduct interstate wagering pursuant to the provisions of this subsection shall during each year make application to the commission for no less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 and one hundred percent (100%) of the number of races scheduled to be run by the track in 1993.

(g) Notwithstanding subsection (f) of this subsection, any thoroughbred track may apply for less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 or one hundred percent (100%) of the number of races scheduled to be run by the track in 1993, if written approval is obtained from the Kentucky Horsemen's Benevolent and Protective Association and the Kentucky Thoroughbred Owners and Breeders Association, Inc.

(h) A separate accounting on all interstate simulcasting shall be submitted to the commission. The accounting shall be submitted in the same format and at the same time that the report for intertrack wagering is submitted.

(i) If the only simulcast or simulcasts a track participating as a host track makes available for interstate wagering through this state's intertrack wagering system on any race day are thoroughbred horse races designated as graded stakes races by the Graded Stakes Committee of the Thoroughbred Owners and Breeders Association, Inc., then the commission of the receiving track on these interstate wagers shall be split as prescribed by KRS 230.378(3); otherwise, the commission of the receiving track shall be split as prescribed by paragraph (j) of this subsection. Interstate simulcasts received by a thoroughbred host track under the conditions set forth in this paragraph shall not be subject to the conditions set forth in paragraphs (b), (c), (e), and (f) of this subsection.

(j) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:

1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;
2. Twenty-five percent (25%) to the thoroughbred host track designated by paragraphs (a) and (e) of this subsection. However, if the race does not occur between the first awarded day of a live meet and the last awarded day of the same live meet, an additional twenty-five percent (25%) shall be retained by the receiving track where the interstate wagering occurs;
3. Twenty-five percent (25%) to the purse program of the receiving track where the interstate wagering occurs; and
4. Twenty-five percent (25%) to the purse program of the thoroughbred host track designated by paragraphs (a) and (e) of this subsection. However, if the race does not occur between the first awarded day of a live meet and the last awarded day of the same live meet, then an additional twenty-five percent (25%) shall be paid to the purse program of the receiving track where the interstate wagering occurs.

(k) A simulcast facility's commission on interstate wagering on thoroughbred racing, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as provided in KRS 230.380(9).

(2) A harness track licensed to conduct harness racing may receive interstate simulcasts of harness horse races and conduct interstate wagering thereon subject to the following limitations:

(a) A harness receiving track may receive interstate simulcasts of harness races and conduct interstate wagering thereon at any time of day and during the course of any live harness horse race meet conducted in the Commonwealth of Kentucky so long as the harness receiving track conducting interstate wagering remits to the harness host track conducting a live meet, from the first awarded day of its live meet through the last awarded day of the same live meet, the amounts provided in paragraph (j) of this subsection.

(b) A harness host track which receives an interstate simulcast and conducts interstate wagering thereon during its live race meet shall offer the simulcasts to all thoroughbred receiving tracks not subject to the provisions of KRS 230.377(2), all harness tracks, and all simulcast facilities through the intertrack wagering system.

(c) Except as otherwise prohibited by law, a harness receiving track or a simulcast facility shall conduct intertrack wagering on all live races of a harness host track on any day it receives an interstate simulcast from a harness host track.

(d) No host track shall require that any receiving track or simulcast facility receive the interstate simulcast.

(e) If more than one (1) harness track conducts live racing at the same time on the same day, no track or simulcast facility may receive an interstate simulcast on harness races unless all harness tracks conducting live racing at that time of day agree upon the interstate simulcast to be received and the division of the harness host track's commission. If more than one (1) harness track conducts live racing at different times on the same day, the harness host track with the highest average daily handle, based on the preceding year, shall be the host track for purposes of splitting the commissions earned on interstate wagering at receiving tracks within the Commonwealth. For purposes of this subsection, average daily handle includes live handle, intertrack wagering handle, and simulcast facility handle. Also for purposes of this subsection, the time of day during which a host track conducts live racing commences with its first published post time and conclude ten (10) minutes after the published post time of its last race of the day, regardless of actual post times.

(f) Each harness track which desires to conduct interstate wagering pursuant to the provisions of this subsection shall during each year make application to the commission for no less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 and one hundred percent (100%) of the number of races scheduled to be run by the track in 1993.

(g) Notwithstanding subsection (f) of this subsection, any harness track may apply for less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 or one hundred percent (100%) of the number of races scheduled to be run by the track in 1993, if written approval is obtained from the Kentucky Harness Horsemen's Association, or its successor.

(h) A separate accounting on all interstate simulcasting shall be submitted to the commission. This accounting shall be submitted in the same format and at the same time that the report for intertrack wagering is submitted.

(i) If the only simulcast or simulcasts a track participating as a harness host track makes available for interstate wagering through this state's intertrack wagering system on any race day are harness horse races (both final and elimination) having a final purse in excess of seventy-five thousand dollars ($75,000), then the commission of the receiving track on these interstate wagers shall be split as prescribed by KRS 230.378(3); otherwise, the commission of the receiving track shall be split as prescribed by paragraph (j) of this subsection. Interstate simulcasts received by a harness host track under the conditions set forth in this paragraph shall not be subject to the conditions set forth in paragraphs (b), (c), (e), and (f) of this subsection.

(j) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:

1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;

2. Twenty-five percent (25%) to the harness host track designated by paragraphs (a) and (e) of this subsection. However, if no live meet is occurring, an additional twenty-five percent (25%) shall be retained by the receiving track where the interstate wagering occurs;

3. Twenty-five percent (25%) to the purse program of the receiving track where the interstate wagering occurs; and

4. Twenty-five percent (25%) to the purse program of the harness host track designated by paragraphs (a) and (e) of this subsection. However, if no live meet is occurring, an additional twenty-five percent (25%) shall be paid to the purse program of the receiving track where the interstate wagering occurs.

(k) A simulcast facility's commission on interstate wagering on harness races, after deduction of applicable taxes and any amount required to be paid by contract to the track from which the interstate simulcast originated, shall be split as provided in KRS 230.380(9).

(3) A harness track may only receive interstate simulcasts of thoroughbred horse races and conduct interstate wagering thereon as provided in subsection (1)(b) of this section. A thoroughbred track may only receive interstate simulcasts of harness horse races and conduct interstate wagering thereon as provided in subsection (2)(b) of this section. A simulcast facility may only receive interstate simulcasts of thoroughbred and harness horse races and conduct interstate wagering thereon as provided in subsections (1)(b) and (2)(b) of this section.

(4) ***(a) A track licensed to conduct horse racing may receive interstate simulcasts of quarter horse races and conduct interstate wagering thereon, subject to the limitations stated in paragraph (b) of this subsection.***

(b) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:

1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;

2. Twenty-five percent (25%) to the host track; and

3. Fifty percent (50%) to the quarter horse purse program within this state, to be allocated by the American Quarter Horse Association or its successor to supplement purses for quarter horse racing in this state.

(5) Other provisions of the Kentucky Revised Statutes notwithstanding, any track in a geographic area that contains more than one (1) track within a fifty (50) mile radius of any other track may only receive interstate simulcasts on racing of the same breed of horse as the track was licensed to race on or before July 15, 1998.

Section 48. KRS 230.378 is amended to read as follows:

(1) A receiving track may accept wagers only at the track where it is licensed to conduct its race meeting or conduct intertrack wagering. A receiving track may accept wagers through a telephone account wagering system. Wagers at a receiving track, simulcast facility, or on telephone account wagering shall form a common pool with wagers at a host track. This common pool requirement shall not apply to wagers made in connection with interstate simulcasting pursuant to KRS 230.3771; however, common pools shall be encouraged.

(2) Except as provided in KRS 230.3771(2), the commission of a receiving track, simulcast facility, or on telephone account wagering shall be the same as the commission of the host track as determined in KRS 230.3615 or 230.750.

(3) In the absence of a valid contract with a horsemen's organization, the commission of a receiving track, after deduction of applicable taxes and other applicable deductions, shall be split as follows:

(a) With respect to races other than quarter horse races, twenty-two percent (22%) to the host track, twenty-two percent (22%) to the purse program at the host track, twenty-two percent (22%) to the receiving track and twenty-two percent (22%) to the purse program at the receiving track. Twelve percent (12%) of the commission shall be allocated evenly between the host track and the receiving track to cover the cost of simulcasting, unless otherwise agreed to by contract***; and***

(b) With respect to quarter horse races, twenty-five percent (25%) to the host track, twenty-five percent (25%) to the receiving track, and fifty percent (50%) to the quarter horse purse program in this state.

(4) The deduction for the backside improvement fund, as provided for in KRS 230.3615(4) shall not apply to the commission or pari-mutuel tax of a receiving track or telephone account wagering.

(5) A receiving track shall be exempt from the admissions tax levied in KRS 138.480 and from any license fee imposed by

statute or regulation by the commission.

Section 49. KRS 243.500 is amended to read as follows:

Any license issued under KRS 243.020 to 243.670 may be revoked or suspended for the following causes:

(1) Conviction of the licensee or his agent or employee for selling any illegal beverages on the licensed premises.

(2) Making any false, material statements in an application for a license or supplemental license.

(3) Violation of the provisions of KRS 243.670.

(4) Conviction of the licensee or any of his clerks, servants, agents, or employees of:

  (a) Two (2) violations of the terms and provisions of KRS Chapter 241, 243, or 244 or any act regulating the manufacture, sale, and transportation of alcoholic beverages within two (2) consecutive years;

  (b) Two (2) misdemeanors directly or indirectly attributable to the use of intoxicating liquors within two (2) consecutive years; or

  (c) Any felony.

(5) Failure or default of a licensee to pay an excise tax or any part of the tax or any penalties imposed by or under the provisions of any statutes, ordinances, or Acts of Congress relative to taxation, or for a violation of any administrative regulations promulgated by the Revenue Cabinet made in pursuance thereof.

(6) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600, and 243.610, or granted under any Act of Congress relative to the regulation of the manufacture, sale, and transportation of alcoholic beverages. Any license issued under KRS 243.020 to 243.670 shall be revoked or suspended if the licensee sells the alcoholic beverages at a price in excess of the price set by federal or state regulations.

(7) Setting up, conducting, operating, or keeping, on the licensed premises, any gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility. This section shall not apply to contests in which eligibility to participate is determined by chance and the ultimate winner is determined by skill and the licensee has no direct interest, or to the sale of lottery tickets sold under the provisions of KRS Chapter 154A***, or to the operation of electronic gaming device games by an electronic gaming device operator licensed and regulated under the provisions of KRS Chapter 230A***.

(8) Conviction of the licensee, his agents, servants, or employees for:

  (a) The sale or use upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances;

  (b) Knowingly permitting the sale or use by patrons upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances; or

  (c) Knowingly receiving stolen property upon the licensed premises.

Section 50. KRS 243.505 is amended to read as follows:

The operation of a pari-mutuel system for betting, where authorized by law, ***or the operation of electronic gaming device games by an electronic gaming device operator licensed and regulated under the provisions of KRS Chapter 230A,*** or the conduct of charitable gaming by a charitable organization licensed and regulated under the provision of KRS Chapter 238, shall not constitute grounds for the revocation or suspension of any license issued under KRS Chapter 243.

Section 51. KRS 525.090 is amended to read as follows:

(1) A person is guilty of loitering when he:

  (a) Loiters or remains in a public place for the purpose of gambling with cards, dice or other gambling paraphernalia, except that the provisions of this section shall not apply if the person is participating in charitable gaming defined by KRS 238.505***, or is playing an electronic gaming device game on the premises of an electronic gaming device operator licensed and regulated under the provisions of KRS Chapter 230A***; or

  (b) Loiters or remains in a public place for the purpose of unlawfully using a controlled substance; or

  (c) Loiters or remains in or about a school, college or university building or grounds, not having any reason or relationship involving custody of or responsibility for a pupil or student or any other specific legitimate reason for being there and not having written permission from anyone authorized to grant the same; or

  (d) Loiters or remains in any transportation facility, unless specifically authorized to do so, for the purpose of soliciting or engaging in any business, trade or commercial transactions involving the sale of merchandise or services.

(2) Loitering is a violation.

Section 52. KRS 528.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Advancing gambling activity" -- A person "advances gambling activity" when, acting other than as a player, he engages in

conduct that materially aids any form of gambling activity. The conduct shall include, but is not limited to, conduct directed toward the establishment of the particular game, contest, scheme, device, or activity involved; toward the acquisition or maintenance of premises, paraphernalia, equipment, or apparatus therefor; toward the solicitation or inducement of persons to participate therein; toward the actual conduct of the playing phases thereof; toward the arrangement of any of its financial or recording phases or toward any other phase of its operation. A person who gambles at a social game of chance on equal terms with other participants does not otherwise advance gambling activity by performing acts, without remuneration or fee, directed toward the arrangement or facilitation of the game as inviting persons to play, permitting the use of premises therefor and supplying equipment used therein.

(2) "Bookmaking" means advancing gambling activity by unlawfully accepting bets upon the outcome of future contingent events from members of the public as a business.

(3) (a) "Gambling" means staking or risking something of value upon the outcome of a contest, game, gaming scheme, or gaming device which is based upon an element of chance, in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome. A contest or game in which eligibility to participate is determined by chance and the ultimate winner is determined by skill shall not be considered to be gambling.

(b) Gambling shall not mean charitable gaming which is licensed and regulated under the provisions of KRS Chapter 238***, or the sale of lottery tickets by a lottery retailer regulated under the provisions of KRS Chapter 154A, or the operation of electronic gaming device games by an electronic gaming device operator licensed and regulated under the provisions of KRS Chapter 230A***.

(4) "Gambling device" means:

(a) Any so-called slot machine or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and which when operated may deliver, as a result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

(b) Any other machine or any mechanical or other device, including but not limited to roulette wheels, gambling tables and similar devices, designed and manufactured primarily for use in connection with gambling and which when operated may deliver, as the result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property;

(c) But, the following shall not be considered gambling devices within this definition:

1. Devices dispensing or selling combination or French pools on licensed, regular racetracks during races on said tracks.

2. Electro-mechanical pinball machines specially designed, constructed, set up, and kept to be played for amusement only. Any pinball machine shall be made to receive and react only to the deposit of coins during the course of a game. The ultimate and only award given directly or indirectly to any player for the attainment of a winning score or combination on any pinball machine shall be the right to play one (1) or more additional games immediately on the same device at no further cost. The maximum number of free games that can be won, registered, or accumulated at one (1) time in operation of any pinball machine shall not exceed thirty (30) free games. Any pinball machine shall be made to discharge accumulated free games only by reactivating the playing mechanism once for each game released. Any pinball machine shall be made and kept with no meter or system to preserve a record of free games played, awarded, or discharged. Nonetheless, a pinball machine shall be a gambling device if a person gives or promises to give money, tokens, merchandise, premiums, or property of any kind for scores, combinations, or free games obtained in playing the pinball machine in which the person has an interest as owner, operator, keeper, or otherwise.

3. Devices used in the conduct of charitable gaming.

4. Electronic gaming devices operated by an electronic gaming device operator licensed and regulated under the provisions of KRS Chapter 230A.

(5) "Lottery and gift enterprise" means:

(a) A gambling scheme in which:

1. The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other media, one (1) or more of which are to be designated the winning ones; and

2. The ultimate winner is to be determined by a drawing or by some other method based upon the element of chance; and

3. The holders of the winning chances are to receive something of value.

(b) A gift enterprise or referral sales plan which meets the elements of a lottery listed in paragraph (a) of this subsection is to be considered a lottery under this chapter.

(6) "Mutuel" or "the numbers games" means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome or outcomes of a future contingent event or events otherwise unrelated to the particular scheme.

(7) "Player" means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct, or operation of the particular gambling activity. A person who engages in "bookmaking" as defined in subsection (2) of this section is not a "player." The status of a "player" shall be a defense to any prosecution under this chapter.

(8) "Profiting from gambling activity" -- A person "profits from gambling activity" when, other than as a player, he accepts or receives or agrees to accept or receive money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity.

(9) "Something of value" means any money or property, any token, object, or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment, or a privilege of playing at a game or scheme without charge.

(10) "Charitable gaming" means games of chance conducted by charitable organizations licensed and regulated under the provisions of KRS Chapter 238.

(11) "Electronic gaming device games" means games played on electronic gaming devices on the premises of an electronic gaming device operator licensed and regulated in accordance with KRS Chapter 230A.

Section 53. KRS 528.100 is amended to read as follows:

Any gambling device or gambling record possessed or used in violation of this chapter is forfeited to the state, and shall be disposed of in accordance with KRS 500.090, except that the provisions of this section shall not apply to charitable gaming activity as defined by KRS 528.010(10)***, or to electronic gaming device games as defined in subsection (11) of Section 52 of this Act***.

Section 54. KRS 138.510 is amended to read as follows:

(1) Except for the conduct of harness racing at a county fair, an excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky Racing Commission. For each track with a daily average handle of one million two hundred thousand dollars ($1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered during the fiscal year. A fiscal year as used in this subsection and subsection (3) of this section shall begin at 12:01 a.m. July 1 and end at 12 midnight June 30. For each track with a daily average handle under one million two hundred thousand dollars ($1,200,000) the tax shall be an amount equal to one and one-half percent (1.5%) of all money wagered during the fiscal year. However, effective January 1, 2001, if a host track located in this state is the location for the conduct of a one (1) day international horse racing event that distributes in excess of a total of ten million dollars ($10,000,000) in purses, an excise tax shall not be imposed on pari-mutuel wagering on live racing conducted that day at the race track. This tax exemption shall remain in effect for any succeeding one (1) day international horse racing event if the event returns within three (3) years of the previously-held event. For the purposes of this subsection, the daily average handle shall be computed from the amount wagered only at the host track on live racing and shall not include money wagered:

(a) At a receiving track;

(b) At a simulcast facility;

(c) On telephone account wagering; or

(d) At a track participating as a receiving track or simulcast facility displaying simulcasts and conducting interstate wagering as permitted by KRS 230.3771 and 230.3773.

Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the amount of three-quarters of one percent (0.75%) of the total live racing handle for thoroughbred racing and one percent (1%) of the total live handle for harness racing.

(2) An excise tax is imposed on:

(a) All licensed tracks conducting telephone account wagering;

(b) All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the Kentucky Racing Commission; and

(c) All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.

(3) The tax imposed in subsection (2) of this section shall be in the amount of three percent (3%) of all money wagered under subsection (2) of this section during the fiscal year. A noncontiguous track facility approved by the Kentucky Racing Commission on or after January 1, 1999, shall be exempt from the tax imposed under this subsection, if the facility is established and operated by a licensed track which has a total annual handle on live racing of two hundred fifty thousand dollars ($250,000) or less. The amount of money exempted under this subsection shall be retained by the noncontiguous track facility, KRS 230.3771 and 230.378 notwithstanding. ***Beginning July 1, 2002, all licensed standardbred racing tracks and any noncontiguous track facility of such tracks and approved by the Kentucky Racing Commission on or***

after January 1, 1999, shall be exempt from the tax imposed under this subsection, and the amount of money so exempted shall be retained by the track, notwithstanding the provisions of Sections 47 and 48 of this Act.

(4) An amount equal to two percent (2%) of the amount wagered shall be deducted from the tax imposed in subsection (2) of this section and deposited as follows:

(a) If the money is deducted from taxes imposed under subsection (2)(a) and (b) of this section, it shall be deposited in the thoroughbred development fund if the host track is conducting a thoroughbred race meeting or the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if the host track is conducting a harness race meeting; or

(b) If the money is deducted from taxes imposed under subsection (2)(c) of this section, to the thoroughbred development fund if interstate wagering is conducted on a thoroughbred race meeting or to the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if interstate wagering is being conducted on a harness race meeting.

(5) ***Three-tenths***[~~Two tenths~~] of one percent ***(0.3%)***[~~(0.2%)~~] of the total amount wagered on live racing in Kentucky shall be deducted from the pari-mutuel tax levied in subsection (1) of this section, and one-twentieth of one percent (0.05%) of the total amount wagered on intertrack wagering shall be deducted for the pari-mutuel tax levied in subsection (2) of this section, and allocated to the equine industry program trust and revolving fund to be used for funding the equine industry program at the University of Louisville.

(6) One-tenth of one percent (0.1%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1), (2), and (3) of this section and deposited to a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subsection shall not replace other funds for capital purposes or operation of equine programs at state universities. The Kentucky Council on Postsecondary Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds. The Kentucky Council on Postsecondary Education may by administrative regulation establish procedures for administering the program and criteria for evaluating and awarding grants.

Section 55. KRS 230.265 is amended to read as follows:

(1) There is hereby created a panel, to be known as the Kentucky Equine Drug Research Council, to advise the commission on the conduct of equine drug research and testing commissioned by the Kentucky Racing Commission. The council shall consist of nine (9) members appointed by the Governor. It is recommended that the Governor appoint one (1) veterinarian from a list of three (3) submitted by the Kentucky Association of Equine Veterinarians, one (1) horseman from a list of three (3) submitted by the Kentucky division of the Horsemen's Benevolent and Protective Association, one (1) pharmacologist from a list of three (3) submitted by the University of Kentucky, one (1) thoroughbred breeder from a list of three (3) submitted by the Kentucky Thoroughbred Owners and Breeders, Inc., one (1) legislator from a list of three (3) submitted by the Legislative Research Commission, one (1) representative of a licensed racing association chosen by the Governor, one (1) member of the harness racing industry from a list of three (3) submitted by the chairman of the Kentucky Racing Commission, one (1) member from a list of three (3) submitted by the Kentucky Harness Horsemen's Association, and one (1) member of the Kentucky Racing Commission, from a list of three (3) submitted by the chairman of the Kentucky Racing Commission, to serve as chairman. The council shall meet at the call of the chairman, a majority of the council, or at the request of the commission. Members shall serve at the pleasure of their respective sponsoring organizations and shall receive no compensation for serving.

(2) The Kentucky Equine Drug Research Council shall review equine drug research and testing research being conducted at the University of Kentucky or with state funds and shall review and report to the commission on drug research and testing research being conducted elsewhere. The council shall advise the commission and make recommendations for establishing an effective drug regulatory policy for Kentucky racing. In addition, the council shall report to the General Assembly any needed changes regarding the regulation of drugs in horse racing in the Commonwealth of Kentucky.

(3) The commission shall receive ***fifteen-hundredths***[~~one tenth~~] of one percent ***(0.15%)***[~~(0.1%)~~] of the total amount wagered and subject to the pari-mutuel tax levied in KRS 138.510. This money shall be deducted from the pari-mutuel tax levied in KRS 138.510 and shall be used in financing drug research and testing research in Kentucky and shall be in addition to any funds appropriated to the commission for these purposes in the executive budget.

Section 56. KRS 13B.020 is amended to read as follows:

(1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.

(2) The provisions of this chapter shall not apply to:

(a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;

(b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;

(c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;

(d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;

(e) Administrative hearings conducted by the legislative and judicial branches of state government;

(f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;

(g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;

(h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;

(i) Administrative hearings exempted pursuant to subsection (3) of this section;

(j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and

(k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.

(3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:

(a) Finance and Administration Cabinet
  1. Higher Education Assistance Authority
    a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
    b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33

(b) Cabinet for Health Services
  1. Office of Certificate of Need
    a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B
    b. Licensure revocation hearings conducted under authority of KRS Chapter 216B

(c) Cabinet for Families and Children
  1. Department for Community Based Services
    a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630
  2. Department for Disability Determination Services
    a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404

(d) Justice Cabinet
  1. Department of State Police
    a. State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16
  2. Department of Corrections
    a. Parole Board hearings conducted under authority of KRS Chapter 439
    b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197
    c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197
  3. Department of Juvenile Justice
    a. Supervised placement revocation hearings conducted under KRS Chapter 635

(e) Labor Cabinet
  1. Department of Workers' Claims
    a. Workers' compensation hearings conducted under authority of KRS Chapter 342

(f) Natural Resources and Environmental Protection Cabinet
  1. Department for Surface Mining Reclamation and Enforcement
    a. Surface mining hearings conducted under authority of KRS Chapter 350
  2. Department for Environmental Protection

a. Wild River hearings conducted under authority of KRS Chapter 146
b. Water resources hearings conducted under authority of KRS Chapter 151
c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223
d. Environmental protection hearings conducted under authority of KRS Chapter 224

(g) Kentucky Occupational Safety and Health Review Commission
1. Occupational safety and health hearings conducted under authority of KRS Chapter 338

(h) Public Protection and Regulation Cabinet
1. Board of Claims
a. Liability hearings conducted under authority of KRS Chapter 44
2. Public Service Commission
a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279

(i) Cabinet for Workforce Development
1. Department for Employment Services
a. Unemployment Insurance hearings conducted under authority of KRS Chapter 341

(j) Secretary of State
1. Registry of Election Finance
a. Campaign finance hearings conducted under authority of KRS Chapter 121

(k) State universities and colleges
1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
3. Campus residency hearings conducted under authority of KRS Chapter 164
4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.

(l) Hearings of the Kentucky Gaming Commission and other hearings authorized under KRS Chapter 230A, 1994 Ky. Acts ch. 382, sec. 19, and any other provision of law to the contrary notwithstanding.

(4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:

(a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;

(b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or

(c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.

(5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.

(6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

SECTION 57. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Any electronic gaming device operator with nonsupervisory employees whose work is directly related to pari-mutuel terminal operations, or to money room functions associated with pari-mutuel gaming, if such work is covered under the terms of a collective bargaining agreement, shall staff nonsupervisory positions directly related to electronic gaming using such employees, if:

(a) A collective bargaining agreement is in place at the time that the electronic gaming device operator is licensed;

(b) The employees are otherwise qualified to meet the licensing requirements of this chapter; and

(c) The employees also meet additional criteria specified by administrative regulations promulgated under this chapter.

(2) The job classifications, job duties, wage rates and benefits of such nonsupervisory positions directly related to electronic gaming may be established by agreement of the parties to the collective bargaining agreement through collective bargaining, or, in the absence of such an agreement, as may be established by the electronic gaming device operator.

Section 58. If any clause, sentence, paragraph, or other part of this Act shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid or unenforceable, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph, or other part of this Act directly involved in the controversy in which such judgment shall have been rendered.

Section 59. The following KRS sections are repealed:

137.170 Tentative state license tax on race meetings.

137.180 Report and payment of tentative state license tax -- Civil penalty for nonpayment.

Section 60. Whereas the state has a need for new revenue, and it is increasingly difficult for the racing industry to compete with increased gaming opportunities in neighboring states, and the operation of electronic gaming device games at licensed racetracks would generate new revenue for the state, help keep racing viable, and protect the substantial economic contribution the racing industry makes to the Commonwealth of Kentucky, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

SB 139, AN ACT relating to private investigators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 329A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 17 of this Act:

(1) "Board" means the Kentucky Board of Licensure for Private Investigators;

(2) "Company" means a firm, association, sole proprietorship, partnership, corporation, nonprofit organization, institution, or similar enterprise;

(3) "Investigating company" or "company licensee" means a company engaged in private investigating that is licensed under Sections 1 to 17 of this Act;

(4) "Private investigating" means the act of any individual or company engaging in the business of obtaining or furnishing information with reference to:

(a) Crime or wrongs done or threatened against the United States or any state or territory of the United States;

(b) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputations, or character of any person;

(c) The location, disposition, or recovery of lost or stolen property;

(d) The cause or responsibility for fires, libels, losses, accidents, damages, or injuries to persons or to property;

(5) "Private investigator" or "individual licensee" means a person who is engaged in private investigating and licensed in accordance with the provisions of Sections 1 to 17 of this Act; and

(6) "Qualifying agent" means a principal corporate officer, such as the chief executive officer, president, vice president, treasurer-secretary, comptroller, or any other responsible officer or executive employee, who is designated by the corporation to represent it in matters relating to Sections 1 to 17 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

No person or company shall hold himself or herself out to the public as a private investigator or use any terms, titles, or abbreviations that express, infer, or imply that the person is licensed as a private investigator unless the person at the time holds a license to practice private investigating issued and validly existing under the laws of this Commonwealth as provided in this chapter. All applicants shall pass a criminal background check based on criteria established under Section 6 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Board of Licensure for Private Investigators is hereby created.

(2) The board shall consist of seven (7) members appointed by the Governor.

(a) One (1) member shall be an attorney from the office of the Attorney General to be designated by the Attorney General;

(b) One (1) member shall be a municipal police officer of the rank of captain or above;

(c) One (1) member shall be a county sheriff;

(d) Three (3) members shall each have been private investigators for at least five (5) years prior to the date of their appointment and shall be of recognized business standing; and

(e) One (1) member shall be a citizen at large who is not associated with or financially interested in the practice of private investigating.

(3) All members shall be residents of this state and possess good moral character.

(4) The original members of the board shall be appointed by no later than January 1, 2003, as follows:

(a) One (1) member to a one (1) year term;

(b) Two (2) members to a two (2) year term;

(c) Two (2) members to a three (3) year term; and

(d) Two (2) members to a four (4) year term.

(5) After the initial appointments to the board, all members shall serve a two (2) year term.

(6) Any vacancy occurring on the board shall be filled by the Governor.

(7) No member may serve more than two (2) full consecutive terms.

(8) The three (3) board members who are private investigators and the member at large shall receive the sum of one hundred dollars ($100) per day for each day the board meets. All members shall receive reimbursement for actual and necessary expenses incurred in the performance of their official duties.

(9) The board shall annually elect a chairman, a vice chairman, and a secretary-treasurer from the membership of the board.

(10) The board shall hold at least two (2) meetings annually and additional meetings as the board may deem necessary. Additional meetings may be held upon call of the chairman or upon written request of a quorum. Four (4) members of the board shall constitute a quorum to conduct business.

(11) Upon recommendation of the board, the Governor may remove any member of the board for neglect of duty or malfeasance in office.

(12) The board may purchase professional liability insurance for the board members and agents and staff of the board.

SECTION 4. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) The board shall administer and enforce the provision of Sections 1 to 17 of this Act and shall evaluate the qualifications of applicants for licensure and issue licenses.

(2) The board shall:

(a) Implement the provisions of Sections 1 to 17 of this Act through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A;

(b) Promulgate administrative regulations to establish fees which shall not exceed the amounts necessary to generate sufficient funds to effectively carry out and enforce the provisions of Sections 1 to 17 of this Act;

(c) Promulgate by administrative regulation an examination to be administered at least twice annually to license applicants. The examination shall be designed to measure knowledge and competence in private investigating including, but not limited to, the following subject areas:

1. Federal and state constitutional principles;

2. Court decisions related to activities which could result in liability for the invasion of privacy or other activities;

3. Eavesdropping and related offenses, assault and related offenses, search and seizure laws, and laws regarding unlawful access to a computer;

4. General weapons use and concealed weapons laws;

5. Additional state criminal laws and related procedures that are relevant to the practice of private investigating; and

6. Additional subject areas as determined by the board; and

(d) Promulgate by administrative regulation a code of professional practice and conduct that shall be based upon generally recognized principles of professional ethical conduct and be binding upon all licensees.

(3) The board may:

(a) Contract with the Division of Occupations and Professions within the Finance and Administration Cabinet for the provision of administrative services;

(b) Employ any persons it deems necessary to carry on the work of the board. The board may define their duties and fix their compensation;

(c) Develop or sponsor at least six (6) hours of continuing professional education annually;

(d) Approve and certify a forty (40) hour training class covering the subject areas of the licensing examination;

(e) Renew licenses and require continuing professional education as a condition for renewal;

(f) Suspend or revoke licenses, impose supervisory or probationary conditions upon licensees, impose administrative disciplinary fines, or issue written admonishments or reprimands, or any combination thereof;

(g) Issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of Sections 1 to 17 of this Act;

(h) Conduct hearings pursuant to KRS Chapter 13B and keep records and minutes necessary to carry out the board's functions;

(i) Organize itself into two (2) panels to separate the functions of inquiry and hearings. Each panel shall have the power to act as either an inquiry or hearing panel. No member serving on the inquiry panel shall serve on the hearing panel for any one (1) particular case. Any final decision of the hearing panel shall be considered as the final decision of the board and the hearing panel may exercise all powers granted to the board pursuant to KRS Chapter 13B;

(j) Utilize mediation as a technique to resolve disciplinary matters;

(k) Seek injunctive relief in Franklin Circuit Court to stop the unlawful practice of private investigating by unlicensed persons or companies; and

(l) Negotiate and enter into reciprocal agreements with appropriate officials in other states to permit licensed investigation companies and private investigators who meet or exceed the qualifications established in Sections 1 to 17 of this Act to operate across state lines under mutually acceptable terms.

SECTION 5. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) All fees and other moneys received by the board pursuant to the provisions of Sections 1 to 17 of this Act shall be deposited in the State Treasury to the credit of a revolving fund for the use of the board.

(2) No part of this revolving fund shall revert to the general fund of this Commonwealth.

(3) The revolving fund may be used to pay for:

(a) The compensation and reimbursement of board members for actual and necessary expenses incurred in the performance of official duties;

(b) The compensation of all of the employees of the board;

(c) Those operational and capital expenses incurred in fulfilling the board's duties as described in Sections 1 to 17 of this Act and in administrative regulations; and

(d) The development or sponsorship of at least six (6) hours of continuing education courses annually, to be conducted in various areas of the state.

SECTION 6. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) An application for a private investigator license shall be filed with the board on the prescribed form.

(a) The application shall include the following information regarding the applicant:

1. Full name and address;

2. Date and place of birth;

3. Social Security number;

4. All residences during the past five (5) years;

5. All employment or occupations engaged in during the past five (5) years;

6. Three (3) sets of classifiable fingerprints;

7. Three (3) credit references from lending institutions or business firms with whom the subject has established a credit record; and

8. Any other information as the board may reasonably require by administrative regulation.

(b) The application shall be subscribed and sworn to by the applicant.

(2) An application for an investigating company license shall be filed with the board on the prescribed form.

(a) The application shall include:

1. The information required in subsection (1)(a) of this section for:

a. The owner, if the company is a sole proprietorship;

b. Each partner, if the company is a partnership; or

c. The qualifying agent, if the company is a corporation;

2. The name under which the company intends to do business;

3. The address of the principal place of business and any branch offices of the company within this state;

and

4. Other information as the board may reasonably require by administrative regulation.

(b) If the company is a corporation, the following information is also required:

1. The correct legal name of the corporation;

2. The state and date of incorporation;

3. The date the corporation qualified to do business in this state;

4. The address of the corporate headquarters, if located outside of this state;

5. The names of two (2) principal corporate officers other than the qualifying agent, their business addresses, residence addresses, and the office held by each in the corporation; and

6. The identity and license number of all private investigators employed by or affiliated with the company.

(c) The application shall be subscribed and sworn to by:

1. The owner, if the applicant is a sole proprietorship;

2. Each partner, if the applicant is a partnership; or

3. The qualifying agent, if the applicant is a corporation.

(3) Each applicant for an individual license or owner, partner, or qualifying agent for a company license shall:

(a) Be at least twenty-one (21) years of age;

(b) Be a citizen of the United States or a resident alien;

(c) Have a high school education or its equivalent;

(d) Not have been convicted of a felony in this or any other state or territory or by the federal government within the previous ten (10) years;

(e) Not have been convicted of a misdemeanor involving moral turpitude or for which dishonesty is a necessary element within the previous five (5) years;

(f) Not have been dishonorably discharged from any branch of the Armed Forces of the United States;

(g) Not have had his or her certification as a peace officer revoked in this or another state;

(h) Not have been declared by any court of competent jurisdiction to be incompetent by reason of mental defect or disease unless a court of competent jurisdiction has since declared the applicant to be competent;

(i) Not have been voluntarily or involuntarily committed to a facility or outpatient program for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances within the three (3) year period immediately preceding the date on which the application is submitted;

(j) Not chronically and habitually use alcoholic beverages as evidenced by:

1. The applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) year period immediately preceding the date on which the application is submitted; or

2. The applicant having been committed as an alcoholic pursuant to KRS Chapter 222, or similar laws of any other state, within the three (3) year period immediately preceding the date on which the application is submitted;

(k) Not chronically and habitually use alcoholic beverages or drugs to the extent that his or her normal faculties are impaired;

(l) Be of good moral character;

(m) Pass an examination administered by the board in accordance with subsection (2)(c) of Section 4 of this Act; and

(n) Submit proof of coverage which meets the following requirements:

1. Is written by an insurance company which is lawfully engaged to provide insurance coverage in Kentucky;

2. Provides for a combined single-limit policy in the amount of at least one million dollars ($1,000,000); and

3. Insures for liability all of the applicant's employees while acting in the course of their employment.

(4) The board shall maintain the confidentiality of information relating to the licensee, except that the board may provide this information to local, state, or federal law enforcement agencies.

SECTION 7. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) Upon receipt of a license application, accompanied by a nonrefundable, nonproratable fee of not less than one

hundred dollars ($100) and not more than five hundred dollars ($500), as established by the board by promulgation of administrative regulations, the board shall:

(a) Conduct an investigation to determine whether the statements made in the application are true; and

(b) Submit the application, including fingerprints as appropriate, to the Kentucky State Police and the Administrative Office of the Courts for a state criminal history background check. The Kentucky State Police may submit fingerprints of any applicant to the Federal Bureau of Investigation for a national criminal history background check. The board may by administrative regulation impose additional qualifications to meet the requirements of Pub. L. No. 92-544. The applicant for licensure shall bear the additional cost, in an amount not to exceed the actual cost, incurred for the criminal background check.

(2) Following the investigation process, the board shall either deny or approve the application.

(a) If the application for a license is denied, the board:

1. Shall notify the applicant in writing and set forth the grounds for denial. If the grounds are subject to correction by the applicant, the notice of denial shall so state and specify a reasonable period of time within which the applicant must make the correction; and

2. Shall grant a hearing to the denied applicant in accordance with the provisions of KRS Chapter 13B.

(b) If the application for a license is approved, the board shall issue:

1. A license to be posted conspicuously in the licensee's principal place of business; and

2. A wallet-sized laminated identification card to each individual licensee to be carried while engaged in private investigation. Information on the card shall include the expiration date of the license and the licensee's:

a. Name;

b. Photograph;

c. Physical characteristics; and

d. License number.

(3) A license or identification card issued under subsection (2) of this section is not assignable and is personal to the transferee.

SECTION 8. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) A license or renewal issued under Sections 1 to 17 of this Act shall be valid for two (2) years from the date of issuance. No later than May 1 in the license renewal year, the board shall send a renewal application form to the address on file for each licensee. The renewal application shall indicate if the licensee is required to submit passport-sized photographs for a new identification card.

(2) All renewal applications shall be received by the board on or before June 30 in the year of renewal.

(3) Each company license renewal shall include a notarized statement sworn to by the representative prescribed in subsection (2)(c) of Section 6 of this Act stating the identity and license number of each private investigator employed by or affiliated with the company.

(4) The fee for the timely renewal of a license shall be not less than fifty dollars ($50) and not more than two hundred fifty dollars ($250), as established by the board by promulgation of administrative regulations.

(5) For individual licensees, the board shall, at its discretion, issue either a new identification card or a renewal stamp or sticker to be affixed to the existing card.

(6) A grace period shall be allowed until September 1 of the license renewal year, during which time licensees may continue to practice and may renew their licenses upon payment of the renewal fee plus a late fee as promulgated by administrative regulation of the board.

(7) All licenses not renewed by September 1 of the renewal year shall terminate based on the failure to renew in a timely manner. Upon termination, the licensee is no longer eligible to practice in this state.

(8) After September 1 of the renewal year, former licensees with a terminated license may have their licenses reinstated upon payment of the renewal fee plus a reinstatement fee as promulgated by administrative regulation of the board. If the reinstatement application is made within five (5) years from the date of termination, applicants shall not be required to submit to any examination as a condition for reinstatement.

(9) A revoked license may not be renewed. If it is reinstated, the licensee shall pay the reinstatement fee as set forth in subsection (8) of this section and the renewal fee as set forth in subsection (4) of this section.

(10) A former licensee who fails to reinstate a license within five (5) years after termination may not have it renewed, restored, or reinstated. A person may apply for and obtain a new license by meeting the current requirements for licensure.

(11) The board may require that a person applying for a renewal or reinstatement of licensure show evidence of completion of continuing professional education as prescribed by the board in administrative regulations.

(12) A valid license may be put on inactive status by the licensee at the time of renewal, at a cost to be determined by the board.

SECTION 9. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) If the ownership of an investigating company changes, the new owner, if not already a licensee, shall not operate that company more than thirty (30) days after the date of the ownership change unless, within the thirty (30) day period, the new owner submits an application for a license.

- *(a) If the application is submitted, the new owner may continue to operate the company until the application has been finally determined by the board.*
- *(b) The board may extend for a reasonable time the period for submitting an application under this subsection.*

(2) If the qualifying agent of a company ceases to perform the duties of an agent on a regular basis, the licensee shall notify the board by certified or registered mail within thirty (30) days and substitute a new qualifying agent within ninety (90) days. The board may extend for a reasonable time the period for obtaining a substitute qualifying agent.

SECTION 10. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

No licensee shall:

(1) Use a badge for identification or make any statement which would reasonably cause another person to believe that the licensee functions as a sworn peace officer or other official of the state, any of its political subdivisions, or an agency of the federal government;

(2) Divulge to anyone, other than his or her client, or to such persons as his or her client may direct, or as may be required by law, any information acquired during such employment that may compromise the client, the person who is the subject of the investigation, or the investigation to which the licensee has been assigned;

(3) Knowingly make a material misrepresentation as to his or her ability to perform the investigation required by a potential client in order to obtain employment;

(4) Knowingly make a material misrepresentation to the client regarding the investigation; or

(5) Continue an investigation for a client when it becomes obvious to the licensee that a successful completion of an investigation is unlikely, unless the licensee advises the client and obtains the client's approval for continuation of the investigation.

SECTION 11. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) The board may investigate allegations of licensee wrongdoing upon complaint or upon its own volition. The board shall promulgate administrative regulations regarding the receiving and investigating of complaints.

(2) If the board's investigation reveals evidence supporting the complaint, the board shall set the matter for hearing pursuant to the provisions of KRS Chapter 13B before suspending, revoking, imposing probationary or supervisory conditions or an administrative fine, issuing a written reprimand, or any other combination of actions regarding any license under the provisions of Sections 1 to 17 of this Act.

(3) If, after an investigation that includes an opportunity for the licensee to respond, the board determines that a violation took place but was not of a serious nature, it may issue a written admonishment to the licensee. A copy of the admonishment shall be placed in the board's permanent licensure file. The licensee shall have the right to file a response to the admonishment within thirty (30) days of its receipt and to have that response placed in the board's permanent licensure file. The licensee may, within thirty (30) days of receipt, file a request for hearing with the board. Upon receipt of this request the board shall set aside the written admonishment and set the matter for hearing under the provisions of KRS Chapter 13B.

SECTION 12. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) The board may refuse to issue a license, or suspend, revoke, impose probationary conditions, impose an administrative fine, issue a written reprimand, or any combination thereof regarding any licensee upon proof that the licensee or applicant has:

- *(a) Violated any provision of Sections 1 to 17 of this Act or any administrative regulation promulgated by the board;*
- *(b) Knowingly and willfully made a material misstatement in connection with an application for license or renewal;*
- *(c) Been convicted of a felony;*
- *(d) Practiced fraud, deceit, or misrepresentation;*
- *(e) Committed any act that would have been cause for refusal to issue the license had it existed and been known to the board at the time of issuance;*
- *(f) Been incompetent or negligent in the practice of private investigating; or*
- *(g) Violated the code of ethics promulgated by administrative regulation by the board.*

(2) In addition to or in lieu of any other lawful disciplinary action under this section, the board may assess a civil penalty

not exceeding two thousand dollars ($2,000).

(3) When the board issues a written reprimand to the licensee a copy of the reprimand shall be placed in the permanent file of the licensee. The licensee shall have the right to submit a response within thirty (30) days of its receipt and to have that response filed in the permanent file.

(4) At any time during the investigative or hearing processes, the board may accept an assurance of voluntary compliance from the licensee if the assurance effectively deals with the complaint.

(5) The board may reconsider, modify, or reverse its probation, suspension, or other disciplinary action.

(6) Any party aggrieved by a disciplinary action of the board may bring an action in Franklin Circuit Court pursuant to the provisions of KRS Chapter 13B.

(7) A license shall be subject to expiration and renewal during any period in which the license is suspended.

SECTION 13. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 17 of this Act do not apply to:

(1) An officer or employee of the United States, this state, another state, or any political subdivision thereof, performing his or her official duties within the course and scope of his or her employment;

(2) A public accountant, certified public accountant, or the bona fide employee of either, performing duties within the scope of public accountancy;

(3) A person engaged exclusively in the business of obtaining and furnishing information regarding the financial rating or standing and credit of persons;

(4) An attorney-at-law, or an attorney's bona fide employee, performing duties within the scope of the practice of law;

(5) An insurance company, licensed insurance agent, or staff or independent adjuster if authorized to do business in Kentucky, performing investigative duties limited to matters strictly pertaining to an insurance transaction;

(6) A person engaged in compiling genealogical information, or otherwise tracing lineage or ancestry, by primarily utilizing public records and historical information or databases;

(7) A private business employee conducting investigations relating to the company entity by which he or she is employed; or

(8) An individual obtaining information or conducting investigations on his or her own behalf.

SECTION 14. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) A licensee shall notify the board in writing within thirty (30) days of:

(a) Any material change in the information previously furnished or required to be furnished to the board;

(b) Any occurrence that could reasonably be expected to affect the licensee's right to a license under Sections 1 to 17 of this Act, including but not limited to any criminal charges placed against the licensee or employees of the licensee;

(c) Any change in insurance coverage required under Section 6 of this Act; and

(d) Any claims, judgments, or settlements against the licensee, the licensee's employees, or the licensee's insurance company.

(2) An investigative company shall notify the board in writing within thirty (30) days of any criminal charges filed against an investigator employed by or affiliated with the company.

SECTION 15. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

Any person violating Section 2 of this Act shall be guilty of a Class A misdemeanor.

SECTION 16. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

The General Assembly intends, by the provisions of this chapter, to occupy the entire field of regulation and licensing of private investigators. No cities, counties, urban-county governments, charter counties, consolidated local governments, or other political subdivisions of the Commonwealth may adopt or continue in effect any ordinance, resolution, regulation, or rule regarding the regulation of private investigators. Nothing in this section shall be construed to abrogate any authority afforded by this chapter to the Kentucky Board of Licensure of Private Investigators.

SECTION 17. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

Sections 1 to 17 of this Act may be cited as the Kentucky Private Investigators Licensing Act.

Section 18. (1) Any private investigating firm that has had its headquarters in the Commonwealth of Kentucky for at least two (2) years prior to the effective date of this Act shall receive a license automatically upon filing the appropriate application and paying the appropriate fee by April 1, 2003.

(2) Any person actively engaged in full-time or part-time investigatory work in this state as a private investigator or as an investigator for a law enforcement agency for a continuous period of at least two (2) years prior to the effective date of this Act shall receive a license upon:

(a) Filing an application with the board prior to April 1, 2003, including supporting documentation;

(b) Paying the licensure fee; and

(c) Passing the examination administered by the board in accordance with Section 4 of this Act unless the board, in its discretion and on a case by case basis, waives the examination requirement.

SB 230, AN ACT relating to architects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 323.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the ***Kentucky***[~~State~~] Board of[~~ Examiners and Registration of~~] Architects[~~ of Kentucky~~];

(2) An "architect" is any person who engages in the practice of architecture as hereinafter defined;

(3) The "practice of architecture" is the rendering or offering to render certain services, hereinafter described, in connection with the design and construction of a structure or group of structures which have as their principal purpose human habitation or use, and the utilization of space within and surrounding such structures. The services referred to in the previous sentence include planning, providing preliminary studies, designs, drawings and specifications, and administration of construction contracts;

(4) A "building" is a structure which has as its principal purpose human habitation or use;

(5) "Use group" is the classification of a building or structure based on the purpose for which it is used, as set forth in the Kentucky Building Code;

(6) "Consultant" is an individual, partnership, or firm acting subordinately and in a position of service to an architect engaged in the practice of architecture as defined.

(7) "Administration of construction contracts" means:

(a) Conducting periodic site visits;

(b) Reviewing shop drawings and reviewing other submittals required of the contractor by the terms of the construction contract documents;

(c) Reporting to the owner any violations of applicable building codes and any substantial deviations from the contract documents that the architect observes; or

(d) Reporting to the building official any violations of applicable building codes that the architect observes.

Section 2. KRS 323.050 is amended to read as follows:

(1) Except as otherwise provided in this chapter, an applicant seeking to obtain a license to practice architecture in Kentucky shall satisfactorily pass the examination that is prescribed by the board.

(2) Every applicant for examination shall:

(a) Be of good moral character; and

(b) Hold a professional degree in architecture accredited by the National Architectural Accrediting Board (NAAB), or its equivalent as determined by administrative regulations promulgated by the board, with such additional experience as the board may prescribe and approve.

(3) Examinations shall be ***available on a regular basis at a place identified by the testing service and shall be given in accordance with the terms and conditions agreed upon by the board and the testing service. Procedures concerning the examination shall be set out in administrative regulations promulgated***[~~given at least annually, the time and place to be established~~] by the board.

Section 3. KRS 323.090 is amended to read as follows:

Any applicant who fails ***a section of the***[~~to pass an~~] examination may ***retake that section if at least six (6) months has elapsed since the applicant took the examination in which he or she failed the section and***[~~take any subsequent examination held within three (3) years from the date of the examination he failed to pass,~~] upon registering with the testing service and paying the testing service's required fee. ***An applicant shall take the examination within three (3) years of the date the applicant receives the board's approval to begin the examination process.*** During this three (3) year period, the applicant shall be excused from paying to the board any additional fees for processing the application for the examination. ***An applicant who does not take the examination within the applicable three (3) year period shall reapply with the board. All examination fees shall be paid to the testing service.***

Section 4. KRS 323.110 is amended to read as follows:

(1) (a) All architects desiring to continue practice shall secure from the board a renewal certificate at the expiration of

their licenses, upon the payment of the prescribed fee. The board shall promulgate administrative regulations establishing the terms of the licenses, and may renew licenses on an annual or biannual basis. The board may stagger the terms of the licenses, if needed, and may double the annual renewal fee as established pursuant to KRS 323.080 for any license issued for a two (2) year period. Not later than June 15 of each year the board shall notify by mail all architects of the renewal date and fee. Application for a renewal shall be upon a form prescribed by the board and the architect shall furnish the information required by the form.

(b) Failure of any architect to secure his ***or her*** renewal certificate within sixty (60) days after July 1 shall result in the automatic revocation of his ***or her*** license ***if the architect fails to submit a properly completed renewal application to the board with the corresponding renewal fee and proof of having completed the continuing education requirement***.

(c) The board may reissue a license that has been revoked for failure to pay the renewal fee ***or meet continuing education requirements established by the board,*** upon proper application ***to***[~~as determined by~~] the board and the payment of all delinquent fees[~~ as directed~~].

(2) A licensed architect may voluntarily surrender his ***or her*** license to the board and thereby be relieved of paying the annual renewal fee. After surrendering his ***or her*** license, ***that person***[~~he~~] shall not be known as a licensed architect and shall desist from the practice of architecture. Within five (5) years from the time of surrender of the license, ***the person***[~~he~~] may again qualify for a license without examination by the payment of the required fee and current renewal fee. If five (5) years thereafter have elapsed, he ***or she*** shall return to the status of a new applicant.

Section 5. KRS 323.120 is amended to read as follows:

(1) The board may refuse to issue, reissue, or renew a license, or may issue a private or public reprimand or may probate, suspend, or revoke the license of any architect to practice architecture in the Commonwealth of Kentucky***, or may impose any combination of these sanctions*** for any of the following reasons:

(a) Gross ***incompetence***[~~incompetency~~] or gross negligence in the planning or construction of buildings, as determined by the board;

(b) Unprofessional conduct, or conduct tending to bring the profession into disrepute, as determined by the board;

(c) Conviction of a felony;

(d) Fraudulent or dishonest architectural practice;

(e) Use of false evidence or misrepresentations in an application for licensing or an application for a renewal certificate;

(f) Signing or affixing his seal to any plans, prints, specifications of buildings, or reports, which have not been prepared by him personally or by his employees under his supervision; or

(g) ***Violating any provision of this chapter or administrative regulations promulgated under the chapter;***

(h) Failing to comply with an order issued by the board; or

(i) Aiding or abetting someone in the unlicensed practice of architecture[~~Failing to comply with any continuing architectural education requirements that may be imposed by the board~~].

(2) The board shall revoke the license of an architect who practices architecture while his license is suspended.

(3) The board may, in lieu of or in addition to other penalties, impose a civil penalty not to exceed three thousand dollars ($3,000), which shall be paid to the benefit of the board's trust and agency account.

Section 6. KRS 323.210 is amended to read as follows:

(1) The board shall:

(a) Adopt and provide itself with a seal with a band inscribed, "***Kentucky***[~~State~~] Board of[~~ Examiners and Registration of~~] Architects[~~ of Kentucky~~]" with the coat of arms of the state in the center;

(b) Promulgate all necessary administrative regulations concerning the contents and conduct of examinations, the method and time for filing applications for examinations, and the time within which an applicant shall be examined after his application has been filed;

(c) Keep a complete record of its proceedings and an accurate list of all applications made, licenses issued, and licenses revoked; and

(d) Make a general report including finances to the governor annually.

(2) The board may promulgate all reasonable administrative regulations not inconsistent with this chapter that are necessary to carry into effect the purposes of this chapter.

(3) The board may promulgate appropriate administrative regulations requiring mandatory continuing education for architects licensed to practice within the Commonwealth as a condition for obtaining their annual renewal certificates. The board shall establish the minimal requirement for obtaining and reporting continuing education, the means by which any requirements shall be enforced, and the criteria for the accreditation of course sponsors, programs, and other activities.

(4) The board may administer oaths, receive evidence, interview persons, issue subpoenas, and require the production of

books, papers, documents, or other evidence for the purpose of enforcing this chapter and investigating complaints or suspected violations of this chapter.

Section 7. KRS 323.250 is amended to read as follows:

Whenever in the judgment of the board any person has engaged, or is about to engage, in any acts or practices that constitute, or will constitute, a violation of KRS 323.020 ***or KRS 323.230***, the board may inform the Attorney General, who may make application to the Franklin Circuit Court for an order enjoining such acts or practices, or the board may inform the Commonwealth's attorney of the county in which the acts or practices are occurring or will occur who may make application to the Circuit Court of that county for an order enjoining such acts or practices. Upon a showing by the board that such person has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court. Any order of the Franklin Circuit Court shall be enforceable and shall be valid anywhere in this state and the order of either court shall be reviewable as provided in the Rules of Civil Procedure in the case of other injunctions and restraining orders.

Section 8. KRS 323.033 is amended to read as follows:

(1) Except as otherwise provided in this section, the following buildings, or additions to existing buildings, classified by use group shall require the services of an architect licensed in the Commonwealth of Kentucky;

(a) Assembly use group having a capacity of one hundred (100) persons or more, except church buildings having a capacity of four hundred (400) persons or less or six thousand (6,000) square feet or less;

(b) Business use group having a capacity of one hundred (100) persons or more;

(c) Institutional use group, regardless of capacity;

(d) Mercantile use group having a capacity of one hundred (100) persons or more;

(e) Residential use group of more than twelve (12) dwelling units or having a capacity of fifty (50) persons or more;

(f) Educational use groups regardless of capacity; and

(g) Mixed use group containing one (1) or more of the use group classifications and capacities listed under paragraphs (a) through (f) of this subsection.

(2) Alterations or new construction requiring compliance with the Kentucky Building Code for any building containing one (1) or more of the use group classifications and capacities listed under subsection (1) of this section shall require the services of an architect licensed in the Commonwealth of Kentucky; except that, when such alterations or new construction predominantly involve primarily structural components or mechanical or electrical systems, services may be performed by one (1) or more licensed professional engineers.

(3) Buildings, or additions to existing buildings, containing one (1) or more of the use group classifications and capacities listed under subsection (1) of this section shall require, in addition to the services of an architect, the services of one (1) or more licensed engineers.

(4) The following buildings and additions to existing buildings, classified by use group, shall require the services of either an architect or a professional engineer registered in the Commonwealth of Kentucky.

(a) Factory and industrial use group having a capacity of one hundred (100) persons or more;

(b) High hazard use group, regardless of capacity;

(c) Storage use group having a capacity of one hundred (100) persons or more; and

(d) Utility and miscellaneous use groups having a capacity of one hundred (100) persons or more.

(5) The services required in subsections (1) to (4) of this section shall include the administration of construction contracts.

The Committee on Judiciary reported **HB 359** with Committee Substitute attached thereto, **HB 384, HB 639,** with Committee Substitute attached thereto, **HB 734, HB 781,** with Committee Substitute attached thereto, **HB 805,** with Committee Substitute and Committee Amendment attached thereto, **HB 811,** with Committee Substitute attached thereto, and **SB 97,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 359, AN ACT relating to medical records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 422.317 is amended to read as follows:

(1) Upon a patient's written ***and personally signed*** request ***that authorizes the release of the requested medical records***, a hospital licensed under KRS Chapter 216B or a health care provider shall provide, without charge to the patient, a copy of the patient's medical ***records including reports relating to any medical examination, test, or diagnostic procedure which were performed on the patient at the request or direction of a third party***[~~record~~]. A copying fee, not to exceed one dollar ($1) per page, may be charged by the health care provider for furnishing a second copy of the patient's medical ***records***[~~record~~] upon request either by the patient or the patient's attorney or the patient's authorized representative.

(2) The Department of Corrections shall not be considered as a health care provider under this section; however, the

department may make[~~ medical~~] records *covered in subsection (1) of this section* of an individual inmate available to that individual inmate unless the department, through its designee, determines that the provision of the *records*[~~record~~] is subject to the provisions of KRS 197.025.

(3) For purposes of this section, patient includes any person who is the subject of a medical examination, test, or diagnostic procedure, including any medical examinations, tests, or diagnostic procedures performed at the request or direction of a third party.

(4) Any hospital or health care provider obligated to provide records under subsection (1) of this section which fails to provide a copy of the records which are maintained on-site within thirty (30) days of receipt of the request or fails to provide a copy of the records which are maintained off-site within sixty (60) days of receipt of the request shall be civilly liable to the person or the estate of the person making the request in the amount of five hundred dollars ($500). Any person recovering a civil penalty under this section shall be additionally entitled to recover costs and a reasonable attorney's fee.

The Committee Substitute to **HB 359** is as follows:

HB 359, AN ACT relating to medical records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 422.317 is amended to read as follows:

(1) Upon a patient's written request, a hospital licensed under KRS Chapter 216B or a health care provider shall provide, without charge to the patient, a copy of the patient's medical *records including reports relating to any medical examination, test, or diagnostic procedure which were performed on the patient at the request or direction of a third party*[~~record~~]. A copying fee, not to exceed one dollar ($1) per page, may be charged by the health care provider for furnishing a second copy of the patient's medical *records*[~~record~~] upon request either by the patient or the patient's attorney or the patient's authorized representative.

(2) The Department of Corrections shall not be considered as a health care provider under this section; however, the department may make[~~ medical~~] records *covered in subsection (1) of this section* of an individual inmate available to that individual inmate unless the department, through its designee, determines that the provision of the *records*[~~record~~] is subject to the provisions of KRS 197.025.

(3) For purposes of this section, patient includes any person who is the subject of a medical examination, test, or diagnostic procedure, including any medical examinations, tests, or diagnostic procedures performed at the request or direction of a third party.

(4) Any hospital or health care provider obligated to provide records under subsection (1) of this section which fails to provide a copy of the records which are maintained on-site within thirty (30) days of receipt of the request or fails to provide a copy of the records which are maintained off-site within sixty (60) days of receipt of the request shall be civilly liable to the person or the estate of the person making the request in the amount of five hundred dollars ($500). Any person recovering a civil penalty under this section shall be additionally entitled to recover costs and a reasonable attorney's fee.

HB 384, AN ACT relating to civil actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 411.560 is amended to read as follows:

(1) Damages allowable for a private nuisance shall be as follows:

  (a) If the nuisance is a permanent nuisance, compensatory damages shall be measured by the reduction in the fair market value of the claimant's property caused by the nuisance, but not to exceed the fair market value of the property;

  (b) If the nuisance is a temporary nuisance and:

    1. The claimant occupied the property during the continuance of the nuisance, compensatory damages shall be measured by the diminution in the value of the use of the property which resulted from the nuisance; or

    2. The claimant did not occupy the property during the continuance of the nuisance, compensatory damages shall be measured by the diminution in the fair rental value of the property which resulted from the nuisance.

(2) A defendant who contributes to a nuisance is responsible for damages as provided in this section only to the extent of *that*[~~such~~] defendant's proportionate contribution to the nuisance as provided in the provisions of KRS 411.182.

(3) No damages shall be awarded for annoyance, discomfort, sickness, emotional distress, or similar claims for a private nuisance. In the event a claim for injury or damage to a person is asserted in the same proceeding as a claim for damage to the claimant's property caused by a private nuisance, liability for such personal injury or damage shall be determined on

the basis of applicable principles of tort law independent of whether the defendant's use of property is found to constitute a nuisance.

(4) A claimant may recover punitive damages for a private nuisance if the claimant recovers damages pursuant to this section and the defendant's conduct in engaging in the specific activity which is alleged to be the nuisance meets or exceeds the standards set forth in KRS 411.184. All provisions of KRS 411.184 and 411.186 shall apply to claims for punitive damages.

(5) No person shall have standing to bring an action for private nuisance unless the person has an ownership interest or possessory interest in the property alleged to be affected by the nuisance.

HB 639, AN ACT relating to penalties for a violation of traffic regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to ***189.575, KRS 189.590 to*** 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(a) Any person who violates subsection (1) of KRS 189.580 ***where a person injured in the accident is seriously injured or killed*** shall be ***guilty of a Class D felony. Any person who violates subsection (1) of KRS 189.580 where a person injured in the accident receives minor injuries shall be*** fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. ***Any person who violates subsection (2) of KRS 189.580 shall be fined not less than twenty dollars ($20) and not more than one hundred dollars ($100) for each offense.***

(b) Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be

assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) Any person who violates any of the provisions of KRS 189.125(3), KRS 189.290, KRS 189.300, KRS 189.340, KRS 189.345, KRS 189.370, KRS 189.393, or KRS 189.505, shall, in addition to any other fine imposed by this chapter, pay an additional fee of ten dollars ($10). Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.

(27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(28) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

Section 2. KRS 281A.190 is amended to read as follows:

(1) A person shall be disqualified from driving a commercial motor vehicle for a period of one (1) year if convicted of:

(a) Driving a commercial motor vehicle under the influence of alcohol or a controlled substance;

(b) Driving a commercial motor vehicle while the alcohol concentration of the person's blood or breath or urine is four hundredths (0.04) or more;

(c) Leaving the scene of an accident involving a commercial motor vehicle driven by the person***. A person who leaves the scene of an accident shall also be subject to the penalties established in Section 1 of this Act***;

(d) Using a commercial motor vehicle in the commission of any felony listed in KRS 186.560; or

(e) Refusing to submit to testing as required by KRS 281A.220.

(2) A person shall be disqualified for life if convicted of two (2) or more violations of any of the offenses specified in subsection (1) of this section or any combination of those offenses, arising from two (2) or more separate incidents. The provisions of this subsection shall only apply to convictions that occurred after the disqualification dates established by the Federal Highway Administration. The Transportation Cabinet shall set forth those dates in an administrative regulation promulgated pursuant to KRS Chapter 13A.

(3) If any violation specified in subsection (1) of this section occurred while transporting a hazardous material required to be placarded, the person shall be disqualified for a period of three (3) years.

(4) Notwithstanding any other provisions of law, a period of suspension, revocation, or disqualification imposed under the provisions of this chapter shall not be reduced. However, in accordance with the provisions of Title 49, Code of Federal Regulations, Part 383, the cabinet may establish guidelines including conditions under which a disqualification of not less than ten (10) years may be imposed.

(5) A person shall be disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

(6) A person shall be disqualified from driving a commercial motor vehicle for a period of sixty (60) days if convicted of two (2) serious traffic violations, or one hundred twenty (120) days if convicted of three (3) serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three (3) year period.

(7) A person shall be disqualified for the first offense from driving a commercial motor vehicle for six (6) months if the person has been convicted of committing any of those offenses enumerated in KRS 186.610 involving a commercial motor vehicle, commercial driver's license, or application for that license. For the second and each subsequent offense, the person shall be disqualified from operating a commercial motor vehicle for a period of one (1) year.

(8) The cabinet shall deny a person a commercial driver's license or shall suspend, revoke, or cancel his commercial driving privilege, subject to a hearing conducted in accordance with KRS 186.570, when the cabinet has reason to believe that the person refused to submit to a test to determine his alcohol concentration while driving a commercial motor vehicle.

(9) After suspending, revoking, or canceling a commercial driver's license, the Transportation Cabinet shall update its records to reflect that action forthwith. After determining that the commercial driver's privilege should be suspended, revoked, or canceled, the Transportation Cabinet shall notify the licensing authority of the state which issued the commercial driver's license or commercial driver's instruction permit with this information within ten (10) days.

The Committee Substitute to **HB 639** is as follows:

HB 639, AN ACT relating to penalties for a violation of traffic regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 520 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of leaving the scene of an accident in the first degree when, after operating a motor vehicle whose vehicle, vehicle load, or vehicle equipment has been involved in an accident or collision resulting in death or serious physical injury to any person other than the defendant, he or she knowingly leaves the scene of that accident with the intent to avoid identification or responsibility under civil or criminal law.

(2) Leaving the scene of an accident in the first degree is a Class D felony.

SECTION 2. A NEW SECTION OF KRS CHAPTER 520 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of leaving the scene of an accident in the second degree when, after operating a motor vehicle whose vehicle, vehicle load, or vehicle equipment has been involved in an accident or collision resulting in physical injury to any person other than the defendant, he or she knowingly leaves the scene of that accident with the intent to avoid identification or responsibility under civil or criminal law.

(2) Leaving the scene of an accident in the second degree is a Class A misdemeanor.

Section 3. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Murder or manslaughter resulting from the operation of a motor vehicle;

(b) Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;

(d) Any felony in the commission of which a motor vehicle is used;

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;

(f) Conviction of ***a violation of Section 1 or 2 of this Act***[~~driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident~~];

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;

(h) Failure to have in full force and effect the security required by Subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period;

(i) Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085; and

(j) Conviction of operating a motor vehicle, motorcycle, or moped without an operator's license as required by KRS 186.410.

(2) If the person convicted of any offense named in subsection (1) of this section is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation, or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1)(a) of this section shall be for a period of not less than five (5) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute.

(5) Except as provided in subsections (3), (4), and (8) of this section, in all other cases, the revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial, or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial, or withdrawal shall be for not less than two (2) years. If the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or 244.085(5) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of said offense, the person's operator's license shall not be revoked, but the person's operator's license shall be restricted to any terms and conditions the secretary in his discretion may require, provided the person has enrolled in an alcohol or substance abuse education or treatment program as the cabinet shall require. If the person fails to satisfactorily complete the education or treatment program or violates the restrictions on his operator's license, the cabinet shall immediately revoke his operator's license for a period of six (6) months.

(6) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS 189A.070, 189A.080, and 189A.090, the person whose license is suspended or revoked shall comply with the fees and other procedures of the Transportation Cabinet with regard to the reinstatement of suspended or revoked licenses.

(7) The cabinet shall revoke the license of any operator of a motor vehicle upon receiving notification that the person is under age eighteen (18) and has dropped out of school or is academically deficient, as defined in KRS 159.051(1).

(8) A person under the age of eighteen (18) who is convicted of the offenses of subsections (1) or (3) of this section, except for subsection (1)(h) of this section, shall have his license revoked until he reaches the age of eighteen (18) or shall have his license revoked as provided in this section, whichever penalty will result in the longer period of revocation.

Section 4. KRS 189.580 is amended to read as follows:

(1)[~~The operator of any vehicle, whose vehicle, vehicle load, or vehicle equipment which is involved in an accident resulting in injury to or death of any person or resulting only in damage to a vehicle or other property which is driven or attended by any person shall immediately stop and ascertain the extent of the injury or damage and render reasonable assistance, including the carrying, or making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary, or if such carrying is requested by the injured person. The operator or person having or assuming authority of the operator, or ownership of the vehicle, shall give the occupant of the vehicle, or person struck, if requested, the registration number of the vehicle, if any, and also the names and addresses of the owner, the occupants and operator. The total names need not exceed five (5) in number.~~

~~(2)~~] The operator of any vehicle which collides with or is involved in an accident with any vehicle or other property[~~ which is unattended~~] resulting in any damage to such other vehicle or property shall immediately stop and shall then and there[~~ either locate and~~] notify the operator or owner of such vehicle or other property of his name, address, and the registration number of the vehicle he is driving or shall attach securely in a conspicuous place in or on such vehicle or other property a written notice giving his name, address, and the registration number of the vehicle he is driving, or shall file a report with the local police department ***within forty-eight (48) hours***.

(2)[~~(3)~~] The operator of a vehicle involved in an accident in subsection (1)[~~ or (2)~~] above resulting in injury to or death of any person or in which total property damage of five hundred dollars ($500) or more is sustained shall, within ten (10) days, report the matter in writing to the Justice Cabinet.

Section 5. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630,[~~ except subsection (1) of KRS 189.580,~~] KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.[~~ Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both.~~] Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars

($25).

(26) Any person who violates any of the provisions of KRS 189.125(3), KRS 189.290, KRS 189.300, KRS 189.340, KRS 189.345, KRS 189.370, KRS 189.393, or KRS 189.505, shall, in addition to any other fine imposed by this chapter, pay an additional fee of ten dollars ($10). Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.

(27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(28) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

Section 6. KRS 189.999 is amended to read as follows:

(1) All offenses under this chapter classified as violations shall be prepayable except for:

(a) Any offense that could result in license suspension or revocation by the court or the Transportation Cabinet;

(b) Any offense relating to KRS 189.393 ***or***~~[,]~~ 189.520~~[, or 189.580]~~;

(c) When the defendant is speeding in a restricted zone;

(d) When the defendant is speeding more than twenty-five (25) miles per hour over the posted speed limit under KRS 189.394;

(e) An offense where evidence of the offense or of commission of another offense is seized by the officer and the citation is so marked and a court date set;

(f) The offense is cited with another offense that is not prepayable; or

(g) An arrest is made under KRS 431.015.

(2) In the event that a prepayable offense is cited with another offense that is not prepayable, a court appearance shall be required on all of the offenses as required by KRS 431.452.

Section 7. KRS 431.005 is amended to read as follows:

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his presence; or

(c) Without a warrant when he has probable cause to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his presence; or

(e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, ***Section 2 of this Act***~~[189.580]~~, 511.080, or 525.070 has been committed in his presence, except that a violation of KRS 189A.010 or KRS 281A.210 need not be committed in his presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person has violated KRS 189A.010 or KRS 281A.210.

(2) (a) Any peace officer may arrest a person without warrant when the peace officer has probable cause to believe that the person has intentionally or wantonly caused physical injury to a family member or member of an unmarried couple.

(b) For the purposes of this subsection, the term "family member" means a spouse, including a former spouse, a parent, a grandparent, a child, a stepchild, or any other person related by consanguinity or affinity within the second degree.

(c) For the purpose of this subsection, the term "member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together.

(3) For purposes of subsection (2) of this section, a "peace officer" is:

(a) A full-time sworn officer of the Kentucky State Police, a full-time sworn officer of the Kentucky Horse Park, a commissioned full-time state park ranger, a full-time officer of the Division of Law Enforcement within the Department of Fish and Wildlife Resources who is exercising authority under KRS Chapter 235, a full-time city policeman, a full-time county policeman, a full-time university safety and security officer appointed pursuant to KRS 164.950 to 164.970, a full-time city-county policeman, a duly elected sheriff, or a full-time paid deputy sheriff; or

(b) A part-time paid law enforcement officer, or a special paid deputy, who has completed a Kentucky law enforcement council approved education and training program referred to in KRS 403.784.

(c) The provisions of this section relating to training shall not apply to a deputy sheriff who is subject to the training requirements specified in KRS 70.263(3).

(4) If a law enforcement officer has probable cause to believe that a person has violated a condition of release imposed in accordance with KRS 431.064 and verifies that the alleged violator has notice of the conditions, the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

(5) A private person may make an arrest when a felony has been committed in fact and he has probable cause to believe that the person being arrested has committed it.

Section 8. KRS 431.015 is amended to read as follows:

(1) A peace officer may issue a citation instead of making an arrest for a misdemeanor committed in his presence, if there are reasonable grounds to believe that the person being cited will appear to answer the charge. The citation shall provide that the defendant shall appear within a designated time.

(2) A peace officer may issue a citation instead of making an arrest for a violation committed in his presence but may not make a physical arrest unless there are reasonable grounds to believe that the defendant, if a citation is issued, will not appear at the designated time or unless the offense charged is a violation of KRS 189.223, 189.290, 189.393, 189.520, ***Section 2 of this Act***[~~189.580~~], 235.240, 281.600, 511.080, or 525.070 committed in his presence or a violation of KRS 189A.010, not committed in his presence, for which an arrest without a warrant is permitted under KRS 431.005(1)(e).

(3) If the defendant fails to appear in response to the citation, or if there are reasonable grounds to believe that he will not appear, a complaint may be made before a judge and a warrant shall issue.

(4) When a physical arrest is made and a citation is issued in relation to the same offense the officer shall mark on the citation, in the place specified for court appearance date, the word "ARRESTED" in lieu of the date of court appearance.

Section 9. KRS 431.410 is amended to read as follows:

The issuance of a summons rather than an arrest warrant shall be mandatory for all offenses, except for violations of KRS 189.290, 189.393, 189.520 ***or Section 2 of this Act,***[~~ 189.580,~~] 511.080 or 525.070, which are deemed violations as defined in KRS 532.020(4) and traffic infractions for which a fine only can be imposed unless the judicial officer finds that:

(1) The defendant previously has failed to respond to a citation or summons for an offense; or

(2) He has no ties to the community and there is a substantial likelihood that he will refuse to respond to a summons; or

(3) The whereabouts of the defendant are unknown and the issuance of an arrest warrant is necessary in order to subject him to the jurisdiction of the court; or

(4) Where arrest is necessary to prevent imminent bodily harm to the accused or to another; or

(5) For any other good and compelling reason as determined by the judicial officer.

HB 734, AN ACT relating to deadly weapons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 237.110 is amended to read as follows:

(1) The Department of State Police is authorized to issue licenses to carry concealed firearms or other deadly weapons to persons qualified as provided in this section. The Department of State Police or the Administrative Office of the Courts shall conduct a record check, covering all offenses and conditions which are required under 18 U.S.C. sec. 922(g) and this section, in the manner provided by 18 U.S.C. sec. 922(s). Licenses shall be valid throughout the state for a period of five (5) years from the date of issuance. Any person in compliance with the terms of the license may carry a concealed firearm or other deadly weapon or combination of firearms and other deadly weapons on or about his person. The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars ($25), payable to the clerk of the District Court.

(2) The Department of State Police, following the record check required by subsection (1) of this section, shall issue a license if the applicant:

(a) Is a resident of the state and has been a resident for six (6) months or longer immediately preceding the filing of the application;

(b) Is twenty-one (21) years of age or older;

(c) Is not ineligible to possess a firearm pursuant to 18 U.S.C. sec. 922(d)(1) or (g) or KRS 527.040;

(d) Has not been committed to a state or federal facility for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances within a three (3) year period immediately preceding the date on which the application is submitted;

(e) Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding his application or if the applicant has been committed as an alcoholic pursuant to KRS Chapter 222, or similar laws of any other state, within the three (3) year period immediately preceding the date on which the application is submitted;

(f) Demonstrates competence with a firearm by any one (1) of the following:

1. Completion, prior to, on, or after October 1, 1996, of any hunter education and firearms safety course approved by the Department of Fish and Wildlife or a similar agency of another state. The Department of Fish and Wildlife may impose additional qualifications by promulgation of administrative regulations to meet the requirements of this section and may establish fees as may be required, so as to avoid a diversion of fish and game funds as specified in 50 C.F.R. Part 80. Any fee assessed shall be reasonable and shall not exceed the actual cost of administering the program;
2. Completion, prior to, on, or after October 1, 1996, of any law enforcement firearms safety or training course or class offered for special local peace officers or special law enforcement officers conducted or approved by the Department of Criminal Justice Training;
3. Completion, prior to, on, or after October 1, 1996, of any firearm safety or training course or class available to the general public offered by law enforcement, junior college, college, or private or public institution or organization or firearms training school, utilizing instructors certified by the Department of Criminal Justice Training; or
4. Completion, prior to, on, or after October 1, 1996, of any firearms training or safety course or class conducted by a state-certified firearms instructor or an instructor holding a certification as a firearms instructor issued by a state or federal agency.

Classes presented pursuant to this paragraph shall include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, handgun marksmanship principles, and actual range firing of a handgun in a safe manner. Classes presented pursuant to this paragraph shall include information on laws relating to firearms as described in KRS Chapters 237 and 527 and the law of the use of force as described in KRS Chapter 503. The Department of Criminal Justice Training, Department of State Police, and any other state agency with the authority to certify firearms instructors, shall promulgate uniform administrative regulations concerning the certification and decertification of all firearms instructors practicing in the Commonwealth of Kentucky. Notwithstanding any other provision of the Kentucky Revised Statutes, no person shall qualify as having demonstrated competence with a firearm pursuant to this subsection, unless certified by a governmental agency of the Commonwealth of Kentucky, or of the federal government. The Administrative Office of the Courts shall publish and make available, at no cost, information in a manner suitable for distribution to class participants. A legible photocopy of a certificate of completion of any of the courses or classes or a notarized affidavit from the instructor, school, club, organization, or group that conducts or teaches the course or class attesting to the completion of the course or class by the applicant shall constitute evidence of qualification under this paragraph. Peace officers who are retired and are members of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be deemed to have met the training requirement;

(g) Has not been adjudicated an incompetent under KRS Chapter 202B or has waited three (3) years from the date his competency was restored by the court order under KRS Chapter 202B; and

(h) Has not been involuntarily committed to a mental institution pursuant to KRS Chapter 202A, unless he possesses a certificate from a psychiatrist licensed in this state that he has not suffered from disability for a period of three (3) years.

(3) The Department of State Police may deny a license if the applicant has been found guilty of a violation of KRS 508.030 or 508.080 within the three (3) year period prior to the date on which the application is submitted or may revoke a license if the licensee has been found guilty of a violation of KRS 508.030 or 508.080 within the preceding three (3) years.

(4) The Department of State Police shall deny, suspend, or revoke a license to carry a concealed deadly weapon upon written notice by the Cabinet for Families and Children that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment, or for failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings.

(5) The application for a permit, or renewal of a permit, to carry a concealed deadly weapon shall be obtained from the office of the sheriff in the county in which the person resides. The completed application and all accompanying material plus an application fee or renewal fee, as appropriate, of sixty dollars ($60) shall be presented to the office of the sheriff of the county in which the applicant resides. A retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be exempt from paying the application or renewal fees following the date of his retirement. The sheriff shall transmit the application and accompanying material to the Department of State Police within five (5) working days. Twenty dollars ($20) of the application fee shall be retained by the office of the sheriff for official expenses of the office. Twenty dollars ($20) shall be sent to the Department of State Police with the application. Ten dollars ($10) shall be transmitted by the sheriff to the Administrative Office of the Courts to fund

background checks for youth leaders, and ten dollars ($10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapons. The application shall be completed, under oath, on a form promulgated by the Department of State Police by administrative regulation which shall only include:

(a) The name, address, place and date of birth, gender, and Social Security number of the applicant;

(b) A statement that, to the best of his knowledge, the applicant is in compliance with criteria contained within subsections (2) and (3) of this section;

(c) A statement that the applicant has been furnished a copy of this section and is knowledgeable about its provisions;

(d) A statement that the applicant has been furnished a copy of, has read, and understands KRS Chapter 503 as it pertains to the use of deadly force for self-defense in Kentucky; and

(e) A conspicuous warning that the application is executed under oath and that a materially false answer to any question, or the submission of any materially false document by the applicant, subjects the applicant to criminal prosecution under KRS 523.030.

(6) The applicant, if a resident of the Commonwealth, shall submit to the sheriff of the applicant's county of residence:

(a) A completed application as described in subsection (5) of this section;

(b) A recent color photograph of the applicant, as prescribed by administrative regulation; and

(c) A photocopy of a certificate or an affidavit or document as described in subsection (2)(f) of this section.

(7) The Department of State Police shall, within ninety (90) days after the date of receipt of the items listed in subsection (6) of this section, either:

(a) Issue the license; or

(b) Deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection (2) or (3) of this section. If the Department of State Police denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of a right to submit, within thirty (30) days, any additional documentation relating to the grounds of denial. Upon receiving any additional documentation, the Department of State Police shall reconsider its decision and inform the applicant within twenty (20) days of the result of the reconsideration. The applicant shall further be informed of the right to seek de novo review of the denial in the District Court of his place of residence within ninety (90) days from the date of the letter advising the applicant of the denial.

(8) The Department of State Police shall maintain an automated listing of licenseholders and pertinent information, and this information shall be available on-line, upon request, at all times to all Kentucky law enforcement agencies. Except as provided in this subsection, information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. Requests for information to be provided to any requester other than a bona fide law enforcement agency which has direct access to the Law Enforcement Information Network of Kentucky shall be made, in writing, directly to the commissioner of the Department of State Police, together with the fee required for the providing of the information. The Department of State Police shall, upon proper application and the payment of the required fee, provide to the requester in hard copy form only, a list of names of all holders in the Commonwealth of a license to carry a concealed deadly weapon. No identifying information other than the name shall be provided, and information for geographic areas or other subdivisions of any type from the list shall not be provided and shall be confidential. The fee to be charged shall be the same as for other public records provided by the Department of State Police. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of State Police, shall provide any information not entitled to it by law. The names of all persons, other than law enforcement agencies and peace officers, requesting information under this section shall be a public record.

(9) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss or destruction of a license, the licensee shall notify the Department of State Police of the loss or destruction. Failure to notify the Department of State Police shall constitute a noncriminal violation with a penalty of twenty-five dollars ($25) payable to the clerk of the District Court. When a licensee makes application to change his or her residence address or other information on the license, neither the sheriff nor the Department of State Police shall require a surrender of the license until a new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff.

(10) If a license is lost or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of fifteen dollars ($15) to the Department of State Police, obtain a duplicate, upon furnishing a notarized statement to the Department of State Police that the license has been lost or destroyed.

(11) A license issued under this section shall be suspended or revoked if the licensee becomes ineligible to be issued a license under the criteria set forth in subsection (2)(a), (c), (d), (e), (f), or (h) of this section. When a domestic violence order or emergency protective order is issued pursuant to the provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The

license shall be suspended until the order is terminated, or until the judge who issued the order terminates the suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.

(12) Not less than ninety (90) days prior to the expiration date of the license, the Department of State Police shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of State Police. The licensee may renew his license on or before the expiration date by filing with the sheriff of his county of residence the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (2) and (3) of this section, and the required renewal fee. The license shall be renewed to a qualified applicant upon receipt of the completed renewal application and appropriate payment of fees. When a licensee makes application for a renewal of his or her license, neither the sheriff nor the Department of State Police shall require a surrender of the license until the new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff. A licensee who fails to file a renewal application on or before its expiration date may renew his license by paying, in addition to the license fees, a late fee of fifteen dollars ($15). No license shall be renewed six (6) months or more after its expiration date, and the license shall be deemed to be permanently expired six (6) months after its expiration date. A person whose license has permanently expired may reapply for licensure pursuant to subsections (5), (6) and (7) of this section.

(13) No license issued pursuant to this section shall authorize any person to carry a concealed firearm into:

(a) Any police station or sheriff's office;

(b) Any detention facility, prison, or jail;

(c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding, except that nothing in this section shall preclude a judge from carrying a concealed weapon;

(d) Any meeting of the governing body of a county, municipality, or special district; or any meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he is a member;

(e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;

(f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;

(g) An area of an airport to which access is controlled by the inspection of persons and property; or

(h) Any place where the carrying of firearms is prohibited by federal law.

(14) The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS 199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons in a vehicle on the premises shall not be a criminal offense so long as the weapons are not removed from the vehicle or brandished while the vehicle is on the premises. A private but not a public employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons in vehicles owned by the employee, except that the Justice Cabinet may prohibit an employee from carrying any weapons, other than the weapons issued or authorized to be used by the employee of the cabinet, in a vehicle while transporting persons under the employee's supervision or jurisdiction. Carrying of a concealed weapon in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.

(15) All moneys collected by the Department of State Police pursuant to this section shall be used to administer the provisions of this section. By March 1 of each year, the Department of State Police and the Administrative Office of the Courts shall submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the amounts of money collected and the expenditures related to this section and KRS 237.115, 244.125, 527.020, and 527.070, and the administration of the provisions of this section and KRS 237.115, 244.125, 527.020, and 527.070.

(16) The General Assembly finds as a matter of public policy that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed firearms and to occupy the field of regulation of the bearing of concealed firearms to

ensure that no person who qualifies under the provisions of this section is denied his rights. The General Assembly does not delegate to the Department of State Police the authority to regulate or restrict the issuing of licenses provided for in this section beyond those provisions contained in this section. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense.

(17) (a) A person who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his license shall be considered as valid in Kentucky.

(b) The Department of State Police shall, not later than thirty (30) days after July 15, 1998, and not less than once every six (6) months thereafter, make written inquiry of the concealed deadly weapon carrying licensing authorities in each other state as to whether a Kentucky resident may carry a concealed deadly weapon in their state based upon having a valid Kentucky concealed deadly weapon license, or whether a Kentucky resident may apply for a concealed deadly weapon carrying license in that state based upon having a valid Kentucky concealed deadly weapon license. The Department of State Police shall attempt to secure from each other state permission for Kentucky residents who hold a valid Kentucky concealed deadly weapon license to carry concealed deadly weapons in that state, either on the basis of the Kentucky license or on the basis that the Kentucky license is sufficient to permit the issuance of a similar license by the other state. The Department of State Police shall enter into a written reciprocity agreement with the appropriate agency in each state that agrees to permit Kentucky residents to carry concealed deadly weapons in the other state on the basis of a Kentucky-issued concealed deadly weapon license or that will issue a license to carry concealed deadly weapons in the other state based upon a Kentucky concealed deadly weapon license. If a reciprocity agreement is reached, the requirement to recontact the other state each six (6) months shall be eliminated as long as the reciprocity agreement is in force. The information shall be a public record and shall be available to individual requesters free of charge for the first copy and at the normal rate for open records requests for additional copies.

(18) By March 1 of each year, the Department of State Police shall submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the number of licenses issued, revoked, suspended, and denied since the previous report and in total and also the number of licenses currently valid. The report shall also include the number of arrests, convictions, and types of crimes committed since the previous report by individuals licensed to carry concealed weapons.

(19) The owner of any building or premises desiring to prohibit the carrying of concealed deadly weapons in the building or on the premises pursuant to subsection (13) or (14) of this section shall post at each separate entranceway to the building or premises a sign meeting the requirements of this subsection and displayed as provided in this subsection as follows:

(a) The sign shall be eight and one-half (8 1/2) inches in height by eleven (11) inches in width and manufactured of suitable weather resistant materials;

(b) The sign shall specifically state:

"CONCEALED DEADLY
WEAPONS ARE
PROHIBITED
BEYOND THIS POINT
PURSUANT TO KRS 237.110 AND 237.115.";

(c) The lettering shall be fluorescent orange and of block style no less than three-fourths (3/4) of one (1) inch in height upon a black background. The statute citation shall be no less than three-eighths (3/8) of one (1) inch in height; and

(d) The sign shall be permanently and prominently affixed to a hard surface, other than the door itself, at a centered height of sixty-four (64) inches and parallel to the plane of the entrance adjacent to and not more than twelve (12) inches from a parallel line extending from the door frame.

(20) Upon request, the Department of State Police shall furnish complete specifications, including a detailed illustration of a sign meeting the requirements of subsection (19) of this section, for a reasonable fee.

(21) If a sign meeting the requirements of subsection (19) of this section is not posted, then it shall be presumed that carrying of a concealed deadly weapon on the premises with a permit is permitted.

Section 2. KRS 237.115 is amended to read as follows:

(1) Nothing contained in KRS 237.110 shall be construed to limit, restrict, or prohibit in any manner the right of a college, university, or any postsecondary education facility, including technical schools and community colleges, to control the possession of deadly weapons on any property owned or controlled by them or the right of a unit of state, city, county, urban-county, or charter county government to prohibit the carrying of concealed deadly weapons by licensees in that portion of a building actually owned, leased, or occupied by that unit of government.

(2) The legislative body of a state, city, county, or urban-county government may, by statute, administrative regulation, or

ordinance, prohibit or limit the carrying of concealed deadly weapons by licensees in that portion of a building owned, leased, or controlled by that unit of government. That portion of a building in which the carrying of concealed deadly weapons is prohibited or limited shall be clearly identified by signs posted at the entrance to the restricted area. The statute or ordinance shall exempt any building used for public housing by private persons, highway rest areas, firing ranges, and private dwellings owned, leased, or controlled by that unit of government from any restriction on the carrying or possession of deadly weapons. The statute, administrative regulation, or ordinance shall not specify any criminal penalty for its violation but may specify that persons violating the statute or ordinance may be denied entrance to the building, ordered to leave the building, and if employees of the unit of government, be subject to employee disciplinary measures for violation of the provisions of the statute or ordinance. The provisions of this section shall not be deemed to be a violation of KRS 65.870 if the requirements of this section are followed. The provisions of this section shall not apply to any other unit of government.

(3) Unless otherwise specifically provided by the Kentucky Revised Statutes or applicable federal law, no criminal penalty shall attach to carrying a concealed firearm or other deadly weapon with a permit at any location at which an unconcealed firearm or other deadly weapon may be constitutionally carried.

(4) The owner of any building or premises desiring to prohibit the carrying of concealed deadly weapons in the building or on the premises pursuant to this section shall post at each separate entranceway to the building or premises a sign meeting the requirements of this subsection and displayed as provided in this subsection as follows:

(a) The sign shall be eight and one-half (8 1/2) inches in height by eleven (11) inches in width and manufactured of suitable weather resistant materials;

(b) The sign shall specifically state:

"CONCEALED DEADLY
WEAPONS ARE
PROHIBITED
BEYOND THIS POINT
PURSUANT TO KRS 237.110 AND 237.115.";

(c) The lettering shall be fluorescent orange and of block style no less than three-fourths (3/4) of one (1) inch in height upon a black background. The statute citation shall be no less than three-eighths (3/8) of one (1) inch in height; and

(d) The sign shall be permanently and prominently affixed to a hard surface, other than the door itself, at a centered height of sixty-four (64) inches and parallel to the plane of the entrance adjacent to and not more than twelve (12) inches from a parallel line extending from the door frame.

(5) Upon request, the Department of State Police shall furnish complete specifications, including a detailed illustration of a sign meeting the requirements of subsection (4) of this section, for a reasonable fee.

(6) If a sign meeting the requirements of subsection (4) of this section is not posted, then it shall be presumed that carrying of a concealed deadly weapon on the premises with a permit is permitted.

Section 3. KRS 237.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 237.030 to 237.050 shall be guilty of a Class D felony.

(2) Any person who violates any of the provisions of KRS 237.030 to 237.050, and in so doing uses any destructive device or booby trap device to avoid detection by law enforcement or other government personnel or to avoid theft or detection by any other person, of any controlled substance as set forth in KRS Chapter 218A and held in violation of KRS 218A.140, shall be guilty of a Class C felony.

(3) (a) Any person who violates the provisions of KRS 237.110 or 237.115 relating to the posting of signs meeting the requirements of KRS 237.110 or 237.115 and denying or attempting to deny a holder of a concealed deadly weapon license admission to the building or premises while carrying a concealed deadly weapon shall be subject to a civil fine of twenty-five dollars ($25).

(b) An action to enforce the statute and recover the fine may be instituted by the county attorney.

(c) Any money recovered pursuant to this subsection shall be transferred by the clerk of the court to the Administrative Office of the Courts and utilized by the Administrative Office of the Courts to defray the cost of background checks for applicants for a license to carry concealed deadly weapons.

(d) The court shall order the removal or replacement of any sign not conforming with the requirements of KRS 237.110 or 237.115 within thirty (30) days of the date of finding the person in violation. Failure to remove or replace any sign specified in the court order within the time limit specified in the court order shall be contempt of court and may be punished as such.

HB 781, AN ACT relating to juries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 29A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Court" means a Circuit or District Court of this Commonwealth and includes any judge of these courts.

(2)[~~ "Jury wheel" means any physical device or electronic system approved by the Supreme Court for the storage and random selection of the names or identifying numbers of prospective jurors.~~

~~(3)~~] "Name" includes an identifying number.

Section 2. KRS 29A.040 is amended to read as follows:

(1) A list of ***all*** persons over the age of eighteen (18) and holding valid driver's licenses which were issued in the county***, of all persons over the age of eighteen (18) filing resident individual income tax returns which show an address in the county, and of all persons registered to vote in the county***[~~and all voter registration lists~~] shall constitute a master list of prospective jurors ***for a county***.[~~ The jury commission shall annually acquire a copy of the driver's license list from the Transportation Cabinet and copies of the voter registration lists from the official having custody of the required lists. The jury commission shall consult the master list in the manner specified by KRS 29A.050 in the selection of prospective jurors.~~]

(2) ***The Administrative Office of the Courts shall at least annually acquire an electronic copy of the driver's license list from the Transportation Cabinet; an electronic copy of the tax roll described in subsection (1) of this section from the Department of Finance and Administration; and an electronic copy of the voter registration lists from the State Board of Elections. In addition, the Administrative Office of the Courts shall at least annually acquire a listing of deceased persons from the Department of Vital Statistics.*** The Transportation Cabinet***, the Department of Finance and Administration, the State Board of Elections, and the Department of Vital Statistics*** and ***those*** public officers or employees having custody, possession, or control of any of the lists required under [~~subsection (1) of~~] this section shall annually furnish a copy of the list to the ***Administrative Office of the Courts***[~~jury commission~~] without charge.

(3) The Administrative Office of the Courts shall merge the lists required by subsections (1) and (2) of this section in a manner designed to create an accurate listing of all persons eligible for jury service. The Administrative Office of the Courts may purge names from the master list upon reasonable evidence of death, change of state residence, change of county residence, or any other reason causing a person to be ineligible for jury service as found in Section 4 of this Act.

Section 3. KRS 29A.060 is amended to read as follows:

(1) Each Circuit or District Judge shall inform the Chief Circuit Judge or ***the Chief Circuit Judge's***[~~ his~~] designee of ***the need***[~~his needs~~] for qualified jurors.

(2)[~~ To select a grand jury or a petit jury in Circuit Court, the clerk shall:~~

~~(a) Draw thirty-two (32) names at random from the jury wheel;~~

~~(b) List the names, in the order drawn, from one (1) to thirty-two (32);~~

~~(c) Place thirty-two (32) numbered balls in a box and shake the box;~~

~~(d) Draw the required number of balls, dependent on the number of jurors required plus alternates, from the box and record the number of each ball as it is drawn.~~

~~(3) To select a petit jury for a trial in District Court, the clerk shall:~~

~~(a) Draw sixteen (16) names at random from the jury wheel;~~

~~(b) List the names, in the order drawn, from one (1) to sixteen (16);~~

~~(c) Place sixteen (16) numbered balls in a box and shake the box;~~

~~(d) Draw the required number of balls, dependent on the number of jurors required plus alternates, from the box and record the number of each ball as it is drawn.~~

~~(4) The names corresponding to the numbers on the balls which have been drawn shall constitute the petit jury. When alternate jurors are permitted the last ball or balls drawn, as the case may be, will represent the alternate jurors.~~

~~(5) As jurors are excused and new jurors are required additional balls shall be drawn from the box, one for each juror required, until all of the balls in the box have been exhausted.~~

~~(6) In the event that all of the balls in the box have been exhausted the box shall be refilled utilizing the process required by subsections (1) to (4) of this section.~~

~~(7)~~] The Chief Circuit Judge ***or designee*** shall regulate the random assignment of jurors for use in Circuit and District Courts. Any petit juror assigned to a judge of Circuit or District Court may be used by any other judge of any other branch or division of Circuit or District Court when jurors are needed.

(3)[~~(8)~~] If a grand, petit, or other jury is ordered to be drawn, the Chief Circuit Judge or[~~ his~~] designee thereafter shall cause each person drawn for jury service to be served with a summons requiring ***that person***[~~him~~] to report for jury service at a specified time and place, unless otherwise notified by the court, and to be available for jury service for thirty (30) judicial days thereafter. The service of summons ***shall be made by the court utilizing first class mail***[~~may be either made personally by the sheriff or sent by first-class mail~~], addressed to ***each person***[~~him~~] at his ***or her*** usual residence, business, or post office address. ***In the event service cannot be accomplished by first class mail, the court may cause service to be made personally by the sheriff.*** In either case, notice shall be mailed or served to the ***prospective*** juror at least thirty (30) days before he ***or she*** is required to attend.

(4)[~~(9)~~] The juror qualification form required by KRS 29A.070 shall be enclosed with the summons. If the summons is served by mail, any prospective juror who does not return the juror qualification form within ten (10) days ***may***[~~shall~~] be personally served by the sheriff ***at the discretion of the Chief Circuit Judge or Chief Circuit Judge's designee***.

(5)[~~(10)~~] When there is an unanticipated shortage of available jurors ***obtained***[~~drawn~~] from a ***randomized jury list***[~~jury wheel~~], the ***Chief Circuit Judge***[~~court~~] may cause ***to be summonsed a sufficient number of jurors selected sequentially from the randomized jury list beginning with the first name following the last name previously selected***[~~additional names to be drawn~~]. The persons so chosen shall be summoned as provided in this section, but need not be given the notice provided in subsection ***(3)***[~~(8)~~] of this section.

(6)[~~(11)~~] Only persons duly qualified and ***summonsed***[~~summoned~~] under subsection ***(3)***[~~(8)~~] of this section and KRS 29A.070 shall serve as jurors.

(7)[~~(12)~~] If, after making a fair effort in good faith, the judge is satisfied that it will be impracticable to obtain a jury free of bias in the county in which the prosecution is pending, ***the judge***[~~he~~] may obtain a sufficient number of jurors from some adjoining county in which the judge believes there is the greatest probability of obtaining impartial jurors. The judge shall request the Chief Circuit Judge for the adjoining county to draw and summon as many jurors as are needed. Jurors summoned under this subsection need not be given the notice provided in subsection ***(3)***[~~(8)~~] of this section.

[~~(13) The names of jurors drawn from the jury wheel shall be made available to the public.~~]

Section 4. KRS 29A.080 is amended to read as follows:

(1) The Chief Circuit Judge or ***one (1) or more judges of the court, the court's clerk, a deputy clerk, the court's administrator, or a deputy court administrator so designated by the Chief Circuit Judge***[~~another judge designated by him~~] shall determine on the basis of the information provided on the juror qualification form whether the prospective juror is disqualified for jury service for any of the reasons listed in subsection (2) of this section.[~~He shall enter~~] This determination ***shall be entered*** in the space provided on the juror qualification form [~~and on the list of names drawn from the jury wheel~~]. The Chief Circuit Judge shall cause each disqualified juror to be immediately notified of ***the juror's***[~~his~~] disqualification.

(2) A prospective juror is disqualified to serve on a jury if ***the juror***[~~he~~]:

- (a) Is under eighteen (18) years of age;
- (b) Is not a citizen of the United States;
- (c) Is not a resident of the county;
- (d) Has insufficient knowledge of the English language;
- (e) Has been previously convicted of a felony and has not been pardoned ***or received a restoration of civil rights*** by the Governor or other authorized person of the jurisdiction in which ***the person***[~~he~~] was convicted;
- (f) Is presently under indictment; or
- (g) Has served on a jury within the ***time limitations set out under Section 7 of this Act***[~~past twelve (12) months~~].

(3) ***The Chief Circuit Judge may grant a permanent exemption based upon an individual's request and a finding by the Chief Circuit Judge of a permanent medical condition rendering the individual incapable of serving. The judge granting the permanent exemption shall notify the requesting person and the Administrative Office of the Courts. Upon receiving notification of a permanent exemption the Administrative Office of the Courts shall remove the person's name from the master list.***

(4) There shall be no waiver of these disqualifications, except that pursuant to the Federal Americans With Disabilities Act of 1990, an individual with a disability shall not be disqualified solely by reason of the disability. For the purposes of this section, "individual with a disability" means a person with a physical or mental impairment that substantially limits one (1) or more of the major life activities of the individual, a record of the impairment, or being regarded as having the impairment.

Section 5. KRS 29A.100 is amended to read as follows:

(1) Upon the request of a prospective juror prior to[~~his~~] assignment to a trial court, the Chief Circuit Judge, or after ***the juror's***[~~his~~] assignment to a trial court, the trial judge may excuse such juror upon a showing of undue hardship, extreme inconvenience or public necessity. ***On the day on which the prospective jurors are summonsed to appear, any person not previously excused who desires to be excused shall be heard.***

(2) The Chief Circuit Judge may designate and authorize one (1) or more judges of the court, the court's clerk, a deputy

clerk, the court's administrator, or a deputy court administrator to excuse a juror from service for a period not to exceed ten (10) days or to postpone jury service for a period not to exceed twelve (12) months. The reasons for excuse or postponement shall be entered in the space provided on the juror qualification form.

(3)[~~(2)~~] In his ***or her*** discretion the judge may excuse a juror from service entirely***, reduce the number of days of service,*** or may postpone the juror's service temporarily ***for a period of time not to exceed, however, twenty-four (24) months***. Whenever possible the judge shall favor temporary postponement of service ***or reduced service*** over permanent excuse. When excusing a juror, the judge shall record the juror's name, as provided in KRS 29A.080, and ***the***[~~his~~] reasons for granting the excuse.

Section 6. KRS 29A.110 is amended to read as follows:

The contents of any records or papers used by the ***Administrative Office of the Courts***[~~jury commission~~] or the clerk in connection with the selection process and not required to be made public under this chapter shall not be disclosed, except in connection with the preparation or presentation of a motion under the Rules of Civil Procedure or the Rules of Criminal Procedure ***or upon order of the Chief Justice***.

Section 7. KRS 29A.130 is amended to read as follows:

(1) Except as set out in this section, in any ***twenty-four (24)***[~~twelve (12)~~] month period, a person shall not be required to:

(a)[~~(1)~~] Serve or attend court for prospective service as a petit juror more than thirty (30) court days except when necessary to complete service in a particular case; or

(b)[~~(2)~~] Serve on more than one grand jury; or

(c)[~~(3)~~]Serve as both a grand and petit juror[~~ except as provided in KRS 29A.260~~].

(2) For the purpose of this section, court includes all federal courts, all other state courts, and any court of the Commonwealth.

Section 8. KRS 29A.160 is amended to read as follows:

(1) An employer shall not deprive an employee of[~~ his~~] employment, or threaten or otherwise coerce ***the employee***[~~him~~] with respect thereto, because the employee receives a summons, responds thereto, serves as a juror, or attends court for prospective jury service.

(2) ***Employers shall pay any employee his or her regular wages for any time during which the employee serves as a juror or attends court for prospective jury service. An employer may request exemption from this requirement by certifying to the Chief Circuit Judge summonsing the employee that the compensation will result in undue financial hardship.***

(3) If an employer discharges an employee in violation of subsection (1) of this section ***or refuses to compensate an employee in violation of subsection (2) of this section***, the employee may within ninety (90) days of such discharge ***or failure to compensate,*** bring a civil action for recovery of wages lost as a result of the violation and***, if discharged,*** for an order requiring the reinstatement of the employee with full seniority and benefits. Damages recoverable shall not exceed lost wages. If ***the employee***[~~he~~] prevails, the employee shall be allowed a reasonable attorney's fee fixed by the court.

Section 9. KRS 29A.170 is amended to read as follows:

(1) ***For jury service on or after July 1, 2003,*** all jurors in Circuit and District Court shall be ***reimbursed***[~~paid five dollars ($5) per day for jury service. In addition thereto, they shall be paid~~] seven dollars and fifty cents ($7.50) per day as reimbursement of expenses incurred, which sum is hereby determined to be the equivalent of the minimum daily expenses reasonably to be incurred by such juror.

(2) ***In addition to the reimbursement required in subsection (1) of this section, for jury service on or after July 1, 2003, all jurors not compensated by employers as required by Section 8 of this Act, shall be paid ten dollars ($10) per day for jury service. For jury service on or after July 1, 2004, all jurors not compensated by employers as required by Section 8 of this Act, shall be paid seventeen dollars and fifty cents ($17.50) per day for jury service.***

(3) Persons who appear in court in response to a summons for jury duty and who are not relieved from jury service shall receive ***reimbursement, as required in subsection (1) of this section,***[~~full compensation~~] for each day they are required to be and are in attendance, even though they are not sworn or accepted for jury service. ***Persons who appear and are sworn or accepted for jury service shall receive compensation as required in subsection (2) of this section.***

Section 10. KRS 29A.260 is amended to read as follows:

At any time for cause shown, the court may excuse a grand juror either temporarily or permanently and may swear another grand juror from a current jury panel in place of the one excused. The discharge of any such grand juror shall in no way or manner affect any indictment found by the grand jury as it was composed either before or after such discharge. If it is impossible to fill the vacancy on the grand jury from a current jury panel, the Chief Circuit Judge may summon, using the procedure in KRS 29A.060***(5)***[~~(10)~~], such number of prospective jurors as deemed necessary for the purpose.

Section 11. KRS 29A.330 is amended to read as follows:

(1) The jury fee for a civil trial in Circuit Court ***and District Court*** shall be ***set in accordance with KRS 48.195***[~~twenty-five dollars ($25). The jury fee for a civil trial in District Court shall be twelve dollars and fifty cents ($12.50)~~].

(2) The jury fee shall be assessed as costs against the unsuccessful party upon judgment or dismissal of the action.

(3) If two (2) or more cases are consolidated by order of the court and tried together, the clerk shall collect only one (1) jury fee.

(4) If a plaintiff sues in forma pauperis, he ***or she*** shall not be liable for a jury fee.

(5) If a request for a jury trial is withdrawn or the case is disposed of not less than two (2) court days prior to the date set for trial the clerk shall not assess the jury fee.

Section 12. KRS 29A.990 is amended to read as follows:

(1) Any employer who violates subsection (1) ***or (2)*** of KRS 29A.160 is guilty of a Class B misdemeanor.

(2) Any willful violation of KRS 29A.010 to 29A.330 for which a penalty is not otherwise provided by statute shall be punishable as a Class A misdemeanor.

Section 13. KRS 30A.110 is amended to read as follows:

(1) Each clerk shall pay to each juror[~~, each jury commissioner,~~] and to each witness the compensation allowed to him by law, under appropriations provided by the General Assembly and in accordance with procedures governing expenditures from appropriations. ***The clerk***[~~He~~] shall take a receipt for each payment made by him showing the date on which payment is made. A canceled check shall be the equivalent of a receipt. For the purpose of providing for such payments, the State Treasurer, on direction of the Finance and Administration Cabinet, shall advance to each clerk two (2) imprest funds: one for the payment of jurors[~~ and jury commissioners~~] which shall be sufficient for the period of service of each grand or petit jury panel, or both, but not to exceed a period of sixty (60) days; the other for the payment of Commonwealth witnesses, which shall be sufficient for a period of time not to exceed sixty (60) days.

(2) Each clerk shall be liable on ***the clerk's***[~~his~~] official bond to account for the full amounts advanced to ***the clerk***[~~him~~] under this section. Each clerk shall file a separate statement concerning each imprest fund with the Finance and Administration Cabinet, in such form as the cabinet prescribes, showing the amounts disbursed since the last preceding report, accompanied by a copy of the canceled check, or a receipt for each amount disbursed signed by the person to whom it was paid, and showing the date of the payment and such other information as the cabinet prescribes. These reports shall be forwarded to the cabinet within thirty (30) days after the end of the period for which funds are advanced.

(3) Any clerk who fails to comply with the provisions of subsection (2) of this section shall be required to pay a penalty of five percent (5%) of all funds not so paid or accounted for.

Section 14. The following KRS sections are repealed:

29A.030 Jury commissioners -- Qualifications -- Compensation -- Term -- Duties.

29A.050 Selection of names of prospective jurors by jury commission.

29A.120 Preservation of records and papers compiled in selection process.

The Committee Substitute to **HB 781** is as follows:

HB 781, AN ACT relating to juries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 29A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Court" means a Circuit or District Court of this Commonwealth and includes any judge of these courts.

(2)[~~ "Jury wheel" means any physical device or electronic system approved by the Supreme Court for the storage and random selection of the names or identifying numbers of prospective jurors.~~

~~(3)~~] "Name" includes an identifying number.

Section 2. KRS 29A.040 is amended to read as follows:

(1) A list of ***all*** persons over the age of eighteen (18) and holding valid driver's licenses which were issued in the county***, of all persons over the age of eighteen (18) filing resident individual income tax returns which show an address in the county, and of all persons registered to vote in the county***[~~and all voter registration lists~~] shall constitute a master list of prospective jurors ***for a county***.[~~ The jury commission shall annually acquire a copy of the driver's license list from the Transportation Cabinet and copies of the voter registration lists from the official having custody of the required lists. The jury commission shall consult the master list in the manner specified by KRS 29A.050 in the selection of prospective jurors.~~]

(2) ***The Administrative Office of the Courts shall at least annually acquire an electronic copy of the driver's license list from the Transportation Cabinet; an electronic copy of the tax roll described in subsection (1) of this section from the Department of Finance and Administration; and an electronic copy of the voter registration lists from the State Board of Elections. In addition, the Administrative Office of the Courts shall at least annually acquire a listing of deceased persons from the Department of Vital Statistics.*** The Transportation Cabinet***, the Department of Finance and Administration, the State Board of Elections, and the Department of Vital Statistics*** and ***those*** public officers or

employees having custody, possession, or control of any of the lists required under [~~subsection (1) of~~] this section shall annually furnish a copy of the list to the ***Administrative Office of the Courts***[~~jury commission~~] without charge.

(3) The Administrative Office of the Courts shall merge the lists required by subsections (1) and (2) of this section in a manner designed to create an accurate listing of all persons eligible for jury service. The Administrative Office of the Courts may purge names from the master list upon reasonable evidence of death, change of state residence, change of county residence, or any other reason causing a person to be ineligible for jury service as found in Section 4 of this Act.

Section 3. KRS 29A.060 is amended to read as follows:

(1) Each Circuit or District Judge shall inform the Chief Circuit Judge or ***the Chief Circuit Judge's***[~~ his~~] designee of ***the need***[~~his needs~~] for qualified jurors.

(2)[~~To select a grand jury or a petit jury in Circuit Court, the clerk shall:~~

~~(a) Draw thirty two (32) names at random from the jury wheel;~~

~~(b) List the names, in the order drawn, from one (1) to thirty-two (32);~~

~~(c) Place thirty two (32) numbered balls in a box and shake the box;~~

~~(d) Draw the required number of balls, dependent on the number of jurors required plus alternates, from the box and record the number of each ball as it is drawn.~~

~~(3) To select a petit jury for a trial in District Court, the clerk shall:~~

~~(a) Draw sixteen (16) names at random from the jury wheel;~~

~~(b) List the names, in the order drawn, from one (1) to sixteen (16);~~

~~(c) Place sixteen (16) numbered balls in a box and shake the box;~~

~~(d) Draw the required number of balls, dependent on the number of jurors required plus alternates, from the box and record the number of each ball as it is drawn.~~

~~(4) The names corresponding to the numbers on the balls which have been drawn shall constitute the petit jury. When alternate jurors are permitted the last ball or balls drawn, as the case may be, will represent the alternate jurors.~~

~~(5) As jurors are excused and new jurors are required additional balls shall be drawn from the box, one for each juror required, until all of the balls in the box have been exhausted.~~

~~(6) In the event that all of the balls in the box have been exhausted the box shall be refilled utilizing the process required by subsections (1) to (4) of this section.~~

~~(7)~~] The Chief Circuit Judge ***or designee*** shall regulate the random assignment of jurors for use in Circuit and District Courts. Any petit juror assigned to a judge of Circuit or District Court may be used by any other judge of any other branch or division of Circuit or District Court when jurors are needed.

(3)[~~(8)~~] If a grand, petit, or other jury is ordered to be drawn, the Chief Circuit Judge or[~~ his~~] designee thereafter shall cause each person drawn for jury service to be served with a summons requiring ***that person***[~~him~~] to report for jury service at a specified time and place, unless otherwise notified by the court, and to be available for jury service for thirty (30) judicial days thereafter. The service of summons ***shall be made by the court utilizing first class mail***[~~may be either made personally by the sheriff or sent by first-class mail~~], addressed to ***each person***[~~him~~] at his ***or her*** usual residence, business, or post office address. ***In the event service cannot be accomplished by first class mail, the court may cause service to be made personally by the sheriff.*** In either case, notice shall be mailed or served to the ***prospective*** juror at least thirty (30) days before he ***or she*** is required to attend.

(4)[~~(9)~~] The juror qualification form required by KRS 29A.070 shall be enclosed with the summons. If the summons is served by mail, any prospective juror who does not return the juror qualification form within ten (10) days ***may***[~~shall~~] be personally served by the sheriff ***at the discretion of the Chief Circuit Judge or Chief Circuit Judge's designee***.

(5)[~~(10)~~] When there is an unanticipated shortage of available jurors ***obtained***[~~drawn~~] from a ***randomized jury list***[~~jury wheel~~], the ***Chief Circuit Judge***[~~court~~] may cause ***to be summonsed a sufficient number of jurors selected sequentially from the randomized jury list beginning with the first name following the last name previously selected***[~~additional names to be drawn~~]. The persons so chosen shall be summoned as provided in this section, but need not be given the notice provided in subsection ***(3)***[~~(8)~~] of this section.

(6)[~~(11)~~] Only persons duly qualified and ***summonsed***[~~summoned~~] under subsection ***(3)***[~~(8)~~] of this section and KRS 29A.070 shall serve as jurors.

(7)[~~(12)~~] If, after making a fair effort in good faith, the judge is satisfied that it will be impracticable to obtain a jury free of bias in the county in which the prosecution is pending, ***the judge***[~~he~~] may obtain a sufficient number of jurors from some adjoining county in which the judge believes there is the greatest probability of obtaining impartial jurors. The judge shall request the Chief Circuit Judge for the adjoining county to draw and summon as many jurors as are needed. Jurors summoned under this subsection need not be given the notice provided in subsection ***(3)***[~~(8)~~] of this section.

[~~(13) The names of jurors drawn from the jury wheel shall be made available to the public.~~]

Section 4. KRS 29A.080 is amended to read as follows:

(1) The Chief Circuit Judge or ***one (1) or more judges of the court, the court's clerk, a deputy clerk, the court's administrator, or a deputy court administrator so designated by the Chief Circuit Judge***~~[another judge designated by him]~~ shall determine on the basis of the information provided on the juror qualification form whether the prospective juror is disqualified for jury service for any of the reasons listed in subsection (2) of this section.~~[He shall enter]~~ This determination ***shall be entered*** in the space provided on the juror qualification form ~~[and on the list of names drawn from the jury wheel]~~. The Chief Circuit Judge shall cause each disqualified juror to be immediately notified of ***the juror's***~~[his]~~ disqualification.

(2) A prospective juror is disqualified to serve on a jury if ***the juror***~~[he]~~:

(a) Is under eighteen (18) years of age;

(b) Is not a citizen of the United States;

(c) Is not a resident of the county;

(d) Has insufficient knowledge of the English language;

(e) Has been previously convicted of a felony and has not been pardoned ***or received a restoration of civil rights*** by the Governor or other authorized person of the jurisdiction in which ***the person***~~[he]~~ was convicted;

(f) Is presently under indictment; or

(g) Has served on a jury within the ***time limitations set out under Section 7 of this Act***~~[past twelve (12) months]~~.

(3) ***The Chief Circuit Judge may grant a permanent exemption based upon an individual's request and a finding by the Chief Circuit Judge of a permanent medical condition rendering the individual incapable of serving. The judge granting the permanent exemption shall notify the requesting person and the Administrative Office of the Courts. Upon receiving notification of a permanent exemption the Administrative Office of the Courts shall remove the person's name from the master list.***

(4) There shall be no waiver of these disqualifications, except that pursuant to the Federal Americans With Disabilities Act of 1990, an individual with a disability shall not be disqualified solely by reason of the disability. For the purposes of this section, "individual with a disability" means a person with a physical or mental impairment that substantially limits one (1) or more of the major life activities of the individual, a record of the impairment, or being regarded as having the impairment.

Section 5. KRS 29A.100 is amended to read as follows:

(1) Upon the request of a prospective juror prior to~~[his]~~ assignment to a trial court, the Chief Circuit Judge, or after ***the juror's***~~[his]~~ assignment to a trial court, the trial judge may excuse such juror upon a showing of undue hardship, extreme inconvenience or public necessity. ***On the day on which the prospective jurors are summonsed to appear, any person not previously excused who desires to be excused shall be heard.***

(2) The Chief Circuit Judge may designate and authorize one (1) or more judges of the court, the court's clerk, a deputy clerk, the court's administrator, or a deputy court administrator to excuse a juror from service for a period not to exceed ten (10) days or to postpone jury service for a period not to exceed twelve (12) months. The reasons for excuse or postponement shall be entered in the space provided on the juror qualification form.

(3)~~[(2)]~~ In his ***or her*** discretion the judge may excuse a juror from service entirely***, reduce the number of days of service,*** or may postpone the juror's service temporarily ***for a period of time not to exceed, however, twenty-four (24) months***. Whenever possible the judge shall favor temporary postponement of service ***or reduced service*** over permanent excuse. When excusing a juror, the judge shall record the juror's name, as provided in KRS 29A.080, and ***the***~~[his]~~ reasons for granting the excuse.

Section 6. KRS 29A.110 is amended to read as follows:

The contents of any records or papers used by the ***Administrative Office of the Courts***~~[jury commission]~~ or the clerk in connection with the selection process and not required to be made public under this chapter shall not be disclosed, except in connection with the preparation or presentation of a motion under the Rules of Civil Procedure or the Rules of Criminal Procedure ***or upon order of the Chief Justice***.

Section 7. KRS 29A.130 is amended to read as follows:

(1) Except as set out in this section, in any ***twenty-four (24)***~~[twelve (12)]~~ month period, a person shall not be required to:

(a)~~[(1)]~~ Serve or attend court for prospective service as a petit juror more than thirty (30) court days except when necessary to complete service in a particular case; or

(b)~~[(2)]~~ Serve on more than one grand jury; or

(c)~~[(3)]~~Serve as both a grand and petit juror~~[except as provided in KRS 29A.260]~~.

(2) For the purpose of this section, court includes all federal courts, all other state courts, and any court of the Commonwealth.

Section 8. KRS 29A.170 is amended to read as follows:

(1) ***For jury service on or after July 1, 2003,*** all jurors in Circuit and District Court shall be ***reimbursed***[~~paid five dollars ($5) per day for jury service. In addition thereto, they shall be paid~~] seven dollars and fifty cents ($7.50) per day as reimbursement of expenses incurred, which sum is hereby determined to be the equivalent of the minimum daily expenses reasonably to be incurred by such juror.

(2) ***In addition to the reimbursement required in subsection (1) of this section, for jury service on or after July 1, 2003, all jurors who lose their usual compensation as a result of such service shall be paid ten dollars ($10) per day for jury service. For jury service on or after July 1, 2004, all jurors who lose their usual compensation as a result of such service shall be paid seventeen dollars and fifty cents ($17.50) per day for jury service.***

(3) Persons who appear in court in response to a summons for jury duty and who are not relieved from jury service shall receive ***reimbursement, as required in subsection (1) of this section,***[~~full compensation~~] for each day they are required to be and are in attendance, even though they are not sworn or accepted for jury service. ***Persons who appear and are sworn or accepted for jury service shall receive compensation as required in subsection (2) of this section.***

Section 9. KRS 29A.260 is amended to read as follows:

At any time for cause shown, the court may excuse a grand juror either temporarily or permanently and may swear another grand juror from a current jury panel in place of the one excused. The discharge of any such grand juror shall in no way or manner affect any indictment found by the grand jury as it was composed either before or after such discharge. If it is impossible to fill the vacancy on the grand jury from a current jury panel, the Chief Circuit Judge may summon, using the procedure in KRS 29A.060***(5)***[~~(10)~~], such number of prospective jurors as deemed necessary for the purpose.

Section 10. KRS 29A.330 is amended to read as follows:

(1) The jury fee for a civil trial in Circuit Court ***and District Court*** shall be ***set in accordance with KRS 48.195***[~~twenty-five dollars ($25). The jury fee for a civil trial in District Court shall be twelve dollars and fifty cents ($12.50)~~].

(2) The jury fee shall be assessed as costs against the unsuccessful party upon judgment or dismissal of the action.

(3) If two (2) or more cases are consolidated by order of the court and tried together, the clerk shall collect only one (1) jury fee.

(4) If a plaintiff sues in forma pauperis, he ***or she*** shall not be liable for a jury fee.

(5) If a request for a jury trial is withdrawn or the case is disposed of not less than two (2) court days prior to the date set for trial the clerk shall not assess the jury fee.

Section 11. KRS 29A.990 is amended to read as follows:

(1) Any employer who violates subsection (1) ***or (2)*** of KRS 29A.160 is guilty of a Class B misdemeanor.

(2) Any willful violation of KRS 29A.010 to 29A.330 for which a penalty is not otherwise provided by statute shall be punishable as a Class A misdemeanor.

Section 12. KRS 30A.110 is amended to read as follows:

(1) Each clerk shall pay to each juror[~~, each jury commissioner,~~] and to each witness the compensation allowed to him by law, under appropriations provided by the General Assembly and in accordance with procedures governing expenditures from appropriations. ***The clerk***[~~He~~] shall take a receipt for each payment made by him showing the date on which payment is made. A canceled check shall be the equivalent of a receipt. For the purpose of providing for such payments, the State Treasurer, on direction of the Finance and Administration Cabinet, shall advance to each clerk two (2) imprest funds: one for the payment of jurors[~~ and jury commissioners~~] which shall be sufficient for the period of service of each grand or petit jury panel, or both, but not to exceed a period of sixty (60) days; the other for the payment of Commonwealth witnesses, which shall be sufficient for a period of time not to exceed sixty (60) days.

(2) Each clerk shall be liable on ***the clerk's***[~~his~~] official bond to account for the full amounts advanced to ***the clerk***[~~him~~] under this section. Each clerk shall file a separate statement concerning each imprest fund with the Finance and Administration Cabinet, in such form as the cabinet prescribes, showing the amounts disbursed since the last preceding report, accompanied by a copy of the canceled check, or a receipt for each amount disbursed signed by the person to whom it was paid, and showing the date of the payment and such other information as the cabinet prescribes. These reports shall be forwarded to the cabinet within thirty (30) days after the end of the period for which funds are advanced.

(3) Any clerk who fails to comply with the provisions of subsection (2) of this section shall be required to pay a penalty of five percent (5%) of all funds not so paid or accounted for.

Section 13. The following KRS sections are repealed:

29A.030 Jury commissioners -- Qualifications -- Compensation -- Term -- Duties.

29A.050 Selection of names of prospective jurors by jury commission.

29A.120 Preservation of records and papers compiled in selection process.

HB 805, AN ACT relating to children and minors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.462 is amended to read as follows:

(1) Before any applicant to provide foster care home services to a minor may be approved, the cabinet[~~ for Families and Children~~] shall request from the Justice Cabinet records of all conviction information for the applicant ***and, if there is a minor living in the home of the applicant, whether the minor to be placed is a juvenile sexual offender, as that term is defined in KRS 635.505(2)***. The Justice Cabinet shall furnish the information to the cabinet[~~ for Families and Children~~] and shall also send a copy of the information to the applicant.

(2) The request for records shall be on a form approved by the Justice Cabinet and the Justice Cabinet may charge a fee to be paid by the applicant for the actual cost of processing the request.

Section 2. KRS 605.090 is amended to read as follows:

(1) Unless precluded by law, any child committed to the Department of Juvenile Justice or the cabinet may by the decision of the Department of Juvenile Justice or the cabinet or its designee, at any time during the period of his commitment, be:

(a) Upon fourteen (14) days' prior written notice to the court, discharged from commitment. Written notice of discharge shall be given to the committing court and to any other parties as may be required by law;

(b) Placed in the home of the child's parents, in the home of a relative, a suitable foster home, or boarding home, upon such conditions as the Department of Juvenile Justice or the cabinet may prescribe and subject to visitation and supervision by a social service worker or juvenile probation and parole officer. At the time a committed child is placed in the home of his parents by the Department of Juvenile Justice or the cabinet, the parents shall be informed in writing of the conditions of the placement and the criteria that will be used to determine whether removal is necessary;

(c) Placed in one (1) of the facilities or programs operated by the Department of Juvenile Justice or the cabinet, except that no child committed under the provisions of KRS 610.010(1)(b), (c), or (d) shall be placed in a facility operated by the Department of Juvenile Justice for children adjudicated as a public offender unless the cabinet and the department agree, and the court consents, that the placement is in the best interest of the child and that the placement does not exceed a group home level;

(d) Placed in a child-caring facility operated by a local governmental unit or by a private organization willing to receive the child, upon such conditions as the cabinet may prescribe;

(e) Treated as provided in KRS Chapter 645;

(f) Following the transfer or placement of a child pursuant to paragraphs (b), (c), (d), or (e) of this subsection, the Department of Juvenile Justice or the cabinet shall, within fourteen (14) days, excluding weekends and holidays, give written notice to the court of the transfer, the placement, and the reasons therefor.

(2) No child ten (10) years of age or under shall be placed in a facility operated by the Department of Juvenile Justice for children adjudicated as public offenders;

(3) If a child committed to the cabinet as dependent, neglected, or abused is placed in the home of the child's parents, the child shall not be removed except in accordance with the following standards and procedures:

(a) If the social service worker believes that the committed child continues to be dependent, neglected, or abused, but immediate removal is unnecessary to protect the child from imminent death or serious physical injury, the casework situation and evidence shall be reviewed with his supervisor to determine whether to continue work with the family intact or to remove the child. There shall be documentation that the social service worker, prior to the court hearing, made an effort to contact the parents to inform them of the specific problems that could lead to removal so they have an opportunity to take corrective action. If the parents are unavailable or do not respond to attempts to communicate, the specific circumstances shall be documented;

(b) If it appears that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm and there is not reasonably available an alternative less drastic than removal of the child from the home, the cabinet shall petition the District Court to review the commitment pursuant to KRS 610.120 in relation to the cabinet's intention to remove the child from the parent's home. The petition shall set forth the facts which constitute the need for removal of the child. The court shall serve notice of the petition and the time and place of the hearing on the parents; however, the social service worker shall also contact the parents to ensure that they received the notice and are aware of the right to be represented by counsel. If the parents' whereabouts are unknown, notice may be mailed to the last known address of an adult who is a near relative. If the court fails to find that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall not be removed from the parents' home;

(c) If a social service worker finds a committed, unattended child who is too young to take care of himself, the social service worker shall make reasonable efforts to arrange for an emergency caretaker in the child's home until the parents return or fail to return within a reasonable time. If no in-home caretaker is available for the child, the social service worker shall request any appropriate law enforcement officer to take the child into protective custody. If, after a reasonable time, it appears the child has been abandoned, the cabinet shall petition the District Court to review the case; or

(d) If there exist reasonable grounds to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents are unable or unwilling to protect the child, the social service worker shall, with the assistance of a law enforcement officer, immediately remove the child prior to filing a petition for review. Within seventy-two (72) hours after the removal, the cabinet shall file a petition for review in District Court pursuant to KRS 610.120 with a request for an expeditious hearing. If the court fails to find that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall be returned to the parents' home.

(4) The cabinet or the Department of Juvenile Justice, as appropriate, shall notify the juvenile court of the county of placement with the conditions of supervised placement of each child placed in that county from one (1) of the residential treatment facilities operated by the Department of Juvenile Justice or the cabinet. Notice of the conditions of such placement may be made available by the court to any law enforcement agency.

(5) The person in charge of any home to which a child is probated, and the governing authority of any private facility or agency to which a child is committed, shall make such reports to the court as the court may require, and such reports as the Department of Juvenile Justice or the cabinet may require in the performance of its functions under the law. The Department of Juvenile Justice or the cabinet shall have the power to make such visitations and inspections of the homes, facilities, and agencies in which children who have committed public offenses have been placed as it deems necessary to carry out its functions under the law.

(6) ***(a)*** The Department of Juvenile Justice or the cabinet shall provide a written transfer summary to the person in charge of any foster home or any governing authority of any private facility or agency in which the Department of Juvenile Justice or the cabinet has placed a child. The written summary shall include, at a minimum, demographic information about the child, a narrative statement detailing the child's prior placements, the length of time the child has been committed, a description of the services and assistance provided to the child or the child's family since the most current case plan, a copy of the current case plan for the child and the child's family, and a copy of the child's medical and educational passport, if available, provided that no information shall be provided that violates any statutory confidentiality requirements. The transfer summary shall be provided by the Department of Juvenile Justice if it is responsible for the child, or the cabinet if it is responsible for the child, within seven (7) days of the placement of the child with the person, agency, or facility providing care to the child.

(b) If a child is living in the foster home or in the private facility or agency in which the Department of Juvenile Justice or cabinet has placed the child, then the written summary shall also state whether the child to be placed is a juvenile sexual offender, as that term is defined in KRS 635.505(2).

(7) The Department of Juvenile Justice may assist the courts in placing children who have committed public offenses in boarding homes, and, under agreements with the individual courts, may assume responsibility for making such placements. Counties may pay or contribute towards the expenses of maintaining such children and, to the extent authorized by the fiscal court, the Department of Juvenile Justice may incur obligations chargeable to the county for such expenses.

The Committee Substitute to **HB 805** is as follows:

HB 805, AN ACT relating to children and minors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.462 is amended to read as follows:

(1) Before any applicant to provide foster care home services to a minor may be approved, the cabinet~~[for Families and Children]~~ shall request from the Justice Cabinet records of all conviction information for the applicant ***and, if there is a minor living in the home of the applicant, whether the minor to be placed is a juvenile sexual offender, as that term is defined in KRS 635.505(2)***. The Justice Cabinet shall furnish the information to the cabinet~~[for Families and Children]~~ and shall also send a copy of the information to the applicant.

(2) The request for records shall be on a form approved by the Justice Cabinet and the Justice Cabinet may charge a fee to be paid by the applicant for the actual cost of processing the request.

Section 2. KRS 605.090 is amended to read as follows:

(1) Unless precluded by law, any child committed to the Department of Juvenile Justice or the cabinet may by the decision of the Department of Juvenile Justice or the cabinet or its designee, at any time during the period of his commitment, be:

(a) Upon fourteen (14) days' prior written notice to the court, discharged from commitment. Written notice of discharge shall be given to the committing court and to any other parties as may be required by law;

(b) Placed in the home of the child's parents, in the home of a relative, a suitable foster home, or boarding home, upon such conditions as the Department of Juvenile Justice or the cabinet may prescribe and subject to visitation and supervision by a social service worker or juvenile probation and parole officer. ***At the time a committed child is placed anywhere other than the home of the child's parents, the cabinet or the Department of Juvenile Justice shall inform the foster home, the relative, or the governing authority of any private facility or agency in which the child has been placed of any known sexual acts or sexual offenses committed by the child. Disclosure of this information shall not constitute a violation of confidentiality under KRS Chapter 610 or 620.*** At the time a committed child is placed in the home of his parents by the Department of Juvenile Justice or the cabinet, the parents shall be informed in writing of the conditions of the placement and the criteria that will be used to determine whether removal is necessary;

(c) Placed in one (1) of the facilities or programs operated by the Department of Juvenile Justice or the cabinet, except that no child committed under the provisions of KRS 610.010(1)(b), (c), or (d) shall be placed in a facility operated by the Department of Juvenile Justice for children adjudicated as a public offender unless the cabinet and the department agree, and the court consents, that the placement is in the best interest of the child and that the placement does not exceed a group home level;

(d) Placed in a child-caring facility operated by a local governmental unit or by a private organization willing to receive the child, upon such conditions as the cabinet may prescribe;

(e) Treated as provided in KRS Chapter 645;

(f) Following the transfer or placement of a child pursuant to paragraphs (b), (c), (d), or (e) of this subsection, the Department of Juvenile Justice or the cabinet shall, within fourteen (14) days, excluding weekends and holidays, give written notice to the court of the transfer, the placement, and the reasons therefor.

(2) No child ten (10) years of age or under shall be placed in a facility operated by the Department of Juvenile Justice for children adjudicated as public offenders;

(3) If a child committed to the cabinet as dependent, neglected, or abused is placed in the home of the child's parents, the child shall not be removed except in accordance with the following standards and procedures:

(a) If the social service worker believes that the committed child continues to be dependent, neglected, or abused, but immediate removal is unnecessary to protect the child from imminent death or serious physical injury, the casework situation and evidence shall be reviewed with his supervisor to determine whether to continue work with the family intact or to remove the child. There shall be documentation that the social service worker, prior to the court hearing, made an effort to contact the parents to inform them of the specific problems that could lead to removal so they have an opportunity to take corrective action. If the parents are unavailable or do not respond to attempts to communicate, the specific circumstances shall be documented;

(b) If it appears that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm and there is not reasonably available an alternative less drastic than removal of the child from the home, the cabinet shall petition the District Court to review the commitment pursuant to KRS 610.120 in relation to the cabinet's intention to remove the child from the parent's home. The petition shall set forth the facts which constitute the need for removal of the child. The court shall serve notice of the petition and the time and place of the hearing on the parents; however, the social service worker shall also contact the parents to ensure that they received the notice and are aware of the right to be represented by counsel. If the parents' whereabouts are unknown, notice may be mailed to the last known address of an adult who is a near relative. If the court fails to find that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall not be removed from the parents' home;

(c) If a social service worker finds a committed, unattended child who is too young to take care of himself, the social service worker shall make reasonable efforts to arrange for an emergency caretaker in the child's home until the parents return or fail to return within a reasonable time. If no in-home caretaker is available for the child, the social service worker shall request any appropriate law enforcement officer to take the child into protective custody. If, after a reasonable time, it appears the child has been abandoned, the cabinet shall petition the District Court to review the case; or

(d) If there exist reasonable grounds to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents are unable or unwilling to protect the child, the social service worker shall, with the assistance of a law enforcement officer, immediately remove the child prior to filing a petition for review. Within seventy-two (72) hours after the removal, the cabinet shall file a petition for review in District Court pursuant to KRS 610.120 with a request for an expeditious hearing. If the court fails to find that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall be returned to the parents' home.

(4) The cabinet or the Department of Juvenile Justice, as appropriate, shall notify the juvenile court of the county of placement with the conditions of supervised placement of each child placed in that county from one (1) of the residential treatment facilities operated by the Department of Juvenile Justice or the cabinet. Notice of the conditions of such placement may be made available by the court to any law enforcement agency.

(5) The person in charge of any home to which a child is probated, and the governing authority of any private facility or agency to which a child is committed, shall make such reports to the court as the court may require, and such reports as the Department of Juvenile Justice or the cabinet may require in the performance of its functions under the law. The Department of Juvenile Justice or the cabinet shall have the power to make such visitations and inspections of the homes, facilities, and agencies in which children who have committed public offenses have been placed as it deems necessary to carry out its functions under the law.

(6) The Department of Juvenile Justice or the cabinet shall provide a written transfer summary to the person in charge of any foster home or any governing authority of any private facility or agency in which the Department of Juvenile Justice or the cabinet has placed a child. The written summary shall include, at a minimum, demographic information about the child, a narrative statement detailing the child's prior placements, the length of time the child has been committed, a description of the services and assistance provided to the child or the child's family since the most current case plan, a copy of the current case plan for the child and the child's family, and a copy of the child's medical and educational passport, if available, provided that no information shall be provided that violates any statutory confidentiality requirements. The transfer summary shall be provided by the Department of Juvenile Justice if it is responsible for the child, or the cabinet if it is responsible for the child, within seven (7) days of the placement of the child with the person, agency, or facility providing care to the child.

(7) The Department of Juvenile Justice may assist the courts in placing children who have committed public offenses in boarding homes, and, under agreements with the individual courts, may assume responsibility for making such placements. Counties may pay or contribute towards the expenses of maintaining such children and, to the extent authorized by the fiscal court, the Department of Juvenile Justice may incur obligations chargeable to the county for such expenses.

The Committee Amendment No. 1 Title to **HB 805** is as follows:

Amend title to read "AN ACT relating to foster care.".

HB 811, AN ACT relating to agroterrorism.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 and 2 of this Act, unless the context otherwise requires:

(1) "Agricultural facility" means any structure or land, whether privately or publicly owned, leased, or operated, that is used for:

- *(a) Personal or commercial agricultural purposes;*
- *(b) Agricultural testing or research purposes in the context of a product development program in conjunction or coordination with a private research facility or a university, or any federal, state, or local government agency; or*
- *(c) The production, storage, or distribution of agricultural products.*

(2) "Agricultural product" means any farm product raised or produced as a result of being in the business of "agriculture", as defined by KRS 246.010.

(3) "Agroterrorism" means the act of intentionally or knowingly, without lawful authority, damaging or destroying any agricultural facility or agricultural product. The offense of attempting, facilitating, or soliciting agroterrorism shall bring the same punishment as the act of agroterrorism.

SECTION 2. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) Any person who commits an act of agroterrorism shall be liable for twice the damages for personal injury and for twice the value of the agricultural facility or agricultural product damaged or destroyed, as determined by a court of competent jurisdiction, plus interest, attorney fees, and reasonable court costs.

(2) In awarding damages under this section, the court shall consider:

- *(a) The actual damages for personal injury;*
- *(b) The actual damages to, or replacement cost of, the agricultural facility; and*
- *(c) 1. The market value of the agricultural product based on the value the agricultural product would have if it was ready for sale; and*
  - *2. The production, research, testing, replacement, and development costs directly related to the agricultural product that was damaged or destroyed.*

Section 3. KRS 500.080 is amended to read as follows:

As used in the Kentucky Penal Code, unless the context otherwise requires:

(1) "Actor" means any natural person and, where relevant, a corporation or an unincorporated association;

(2) "Crime" means a misdemeanor or a felony;

(3) "Dangerous instrument" means any instrument, including parts of the human body when a serious physical injury is a direct result of the use of that part of the human body, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury;

(4) "Deadly weapon" means any of the following:

- (a) A weapon of mass destruction;
- (b) Any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged;
- (c) Any knife other than an ordinary pocket knife or hunting knife;
- (d) Billy, nightstick, or club;
- (e) Blackjack or slapjack;
- (f) Nunchaku karate sticks;
- (g) Shuriken or death star; or
- (h) Artificial knuckles made from metal, plastic, or other similar hard material;

(5) "Felony" means an offense for which a sentence to a term of imprisonment of at least one (1) year in the custody of the Department of Corrections may be imposed;

(6) "Government" means the United States, any state, county, municipality, or other political unit, or any department, agency, or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government;

(7) "He" means any natural person and, where relevant, a corporation or an unincorporated association;

(8) "Law" includes statutes, ordinances, and properly adopted regulatory provisions. Unless the context otherwise clearly requires, "law" also includes the common law;

(9) "Minor" means any person who has not reached the age of majority as defined in KRS 2.015;

(10) "Misdemeanor" means an offense, other than a traffic infraction, for which a sentence to a term of imprisonment of not more than twelve (12) months can be imposed;

(11) "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state or by any law, order, rule, or regulation of any governmental instrumentality authorized by law to adopt the same;

(12) "Person" means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority;

(13) "Physical injury" means substantial physical pain or any impairment of physical condition;

(14) "Possession" means to have actual physical possession or otherwise to exercise actual dominion or control over a tangible object;

(15) "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;

(16) "Unlawful" means contrary to law or, where the context so requires, not permitted by law. It does not mean wrongful or immoral;

(17) "Violation" means an offense, other than a traffic infraction, for which a sentence to a fine only can be imposed; and

(18) "Weapon of mass destruction" means:

- (a) Any destructive device as defined in KRS 237.030, but not fireworks as defined in KRS 227.700;
- (b) Any weapon that is designed or intended to cause death or serious physical injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors;
- (c) Any weapon involving a disease organism; or
- (d) Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

(19) (a) "Agricultural facility" means any structure or land, whether privately or publicly owned, leased, or operated, that is used for:

- *1. Personal or commercial agricultural purposes;*
- *2. Agricultural testing or research purposes in the context of a product development program in conjunction or coordination with a private research facility or a university, or any federal, state, or local government agency; or*
- *3. The production, storage, or distribution of agricultural products.*

(b) An agricultural facility is considered "property" as the term is used in KRS Chapter 512.

(20) "Agricultural product" means any farm product raised or produced as a result of being in the business of

"agriculture", as defined by KRS 246.010. An agricultural product is considered "property" as the term is used in KRS Chapter 512, and is considered "personal property" as the term is used in KRS Chapter 513.

Section 4. KRS 513.010 is amended to read as follows:

The following definition applies in this chapter unless the context otherwise requires:

"Building," in addition to its ordinary meaning, specifically includes any dwelling, ***agricultural facility,*** hotel, commercial structure, automobile, truck, watercraft, aircraft, trailer, sleeping car, railroad car, or other structure or vehicle, or any structure with a valid certificate of occupancy.

Section 5. The following KRS sections are repealed:

437.410 Definitions.
437.415 Findings of the General Assembly.
437.420 Offenses.
437.429 Penalties.

The Committee Substitute to **HB 811** is as follows:

HB 811, AN ACT relating to agroterrorism.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 and 2 of this Act, unless the context otherwise requires:

(1) "Agricultural facility" means any structure or land, whether privately or publicly owned, leased, or operated, that is used for:

(a) Personal or commercial agricultural purposes;

(b) Agricultural testing or research purposes in the context of a product development program in conjunction or coordination with a private research facility or a university, or any federal, state, or local government agency; or

(c) The production, storage, or distribution of agricultural products.

(2) "Agricultural product" means any farm product raised or produced as a result of being in the business of "agriculture", as defined by KRS 246.010.

(3) "Agroterrorism" means the act of damaging or destroying any agricultural facility or agricultural product with the intent to deprive the public of a substantial source of food or water. The offense of attempting, facilitating, or soliciting agroterrorism shall bring the same punishment as the act of agroterrorism.

SECTION 2. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) Any person who commits an act of agroterrorism shall be liable for personal injury and for restitution for the value of the agricultural facility or agricultural product damaged or destroyed, as determined by a court of competent jurisdiction, plus interest, attorney fees, and reasonable court costs.

(2) In awarding damages under this section, the court shall consider:

(a) The actual damages for personal injury;

(b) The actual damages to, or replacement cost of, the agricultural facility; and

(c) The market value of the agricultural product based on the value the agricultural product would have if it was ready for sale.

Section 3. KRS 500.080 is amended to read as follows:

As used in the Kentucky Penal Code, unless the context otherwise requires:

(1) "Actor" means any natural person and, where relevant, a corporation or an unincorporated association;

(2) "Crime" means a misdemeanor or a felony;

(3) "Dangerous instrument" means any instrument, including parts of the human body when a serious physical injury is a direct result of the use of that part of the human body, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury;

(4) "Deadly weapon" means any of the following:

(a) A weapon of mass destruction;

(b) Any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged;

(c) Any knife other than an ordinary pocket knife or hunting knife;

(d) Billy, nightstick, or club;

(e) Blackjack or slapjack;

(f) Nunchaku karate sticks;

(g) Shuriken or death star; or

(h) Artificial knuckles made from metal, plastic, or other similar hard material;

(5) "Felony" means an offense for which a sentence to a term of imprisonment of at least one (1) year in the custody of the Department of Corrections may be imposed;

(6) "Government" means the United States, any state, county, municipality, or other political unit, or any department, agency, or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government;

(7) "He" means any natural person and, where relevant, a corporation or an unincorporated association;

(8) "Law" includes statutes, ordinances, and properly adopted regulatory provisions. Unless the context otherwise clearly requires, "law" also includes the common law;

(9) "Minor" means any person who has not reached the age of majority as defined in KRS 2.015;

(10) "Misdemeanor" means an offense, other than a traffic infraction, for which a sentence to a term of imprisonment of not more than twelve (12) months can be imposed;

(11) "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state or by any law, order, rule, or regulation of any governmental instrumentality authorized by law to adopt the same;

(12) "Person" means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority;

(13) "Physical injury" means substantial physical pain or any impairment of physical condition;

(14) "Possession" means to have actual physical possession or otherwise to exercise actual dominion or control over a tangible object;

(15) "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;

(16) "Unlawful" means contrary to law or, where the context so requires, not permitted by law. It does not mean wrongful or immoral;

(17) "Violation" means an offense, other than a traffic infraction, for which a sentence to a fine only can be imposed;~~[and]~~

(18) "Weapon of mass destruction" means:

(a) Any destructive device as defined in KRS 237.030, but not fireworks as defined in KRS 227.700;

(b) Any weapon that is designed or intended to cause death or serious physical injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors;

(c) Any weapon involving a disease organism; or

(d) Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life*;*

(19) (a) Only in an act of agroterrorism, "agricultural facility" means any structure or land, whether privately or publicly owned, leased, or operated, that is used for:

1. Personal or commercial agricultural purposes;

2. Agricultural testing or research purposes in the context of a product development program in conjunction or coordination with a private research facility or a university, or any federal, state, or local government agency; or

3. The production, storage, or distribution of agricultural products.

(b) An agricultural facility is considered "property" as the term is used in KRS Chapter 512;

(20) Only in an act of agroterrorism, "agricultural product" means any farm product raised or produced as a result of being in the business of "agriculture", as defined by KRS 246.010. An agricultural product is considered "property" as the term is used in KRS Chapter 512, and is considered "personal property" as the term is used in KRS Chapter 513; and

(21) "Agroterrorism" means the act of damaging or destroying any agricultural facility or agricultural product with the intent to deprive the public of a substantial source of food or water. The offense of attempting, facilitating, or soliciting agroterrorism shall bring the same punishment as the act of agroterrorism.

Section 4. KRS 513.010 is amended to read as follows:

The following definition applies in this chapter unless the context otherwise requires:

"Building," in addition to its ordinary meaning, specifically includes any dwelling, ***agricultural facility,*** hotel, commercial structure, automobile, truck, watercraft, aircraft, trailer, sleeping car, railroad car, or other structure or vehicle, or any structure with a valid certificate of occupancy.

Section 5. The following KRS sections are repealed:

437.410 Definitions.

437.415 Findings of the General Assembly.

437.420 Offenses.

437.429 Penalties.

SB 97, AN ACT relating to domestic relations and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.750 is amended to read as follows:

(1) ***(a)*** Following the hearing provided for under KRS 403.740 and 403.745, the court, if it finds from a preponderance of the evidence that an act or acts of domestic violence and abuse have occurred and may again occur, may:

1.[~~(a)~~] Restrain the adverse party from any contact or communication with the petitioner except as directed by the court;

2.[~~(b)~~] Restrain the adverse party from committing further acts of domestic violence and abuse;

3.[~~(c)~~] Restrain the adverse party from disposing of or damaging any of the property of the parties;

4.[~~(d)~~] Direct the adverse party to vacate the residence shared by the parties to the action;

5.[~~(e)~~] Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.420, award temporary custody;

6.[~~(f)~~] Utilizing the criteria set forth in KRS 403.211, 403.212, and 403.213, award temporary support;

7.[~~(g)~~] Direct that either or both parties receive counseling services available in the community, except that the court shall not order or refer the parties to participate in mediation for resolution of the issues alleged in the petition filed ***under***[~~pursuant to~~] KRS 403.715 to 403.785; or

8.[~~(h)~~] Enter other orders the court believes will be of assistance in eliminating future acts of domestic violence and abuse.

(b)[~~(2)~~] Any order entered ***under***[~~pursuant to~~] this ***subsection***[~~section~~] shall be effective for a period of time, fixed by the court, not to exceed three (3) years and may be reissued upon expiration for an additional period of up to three (3) years. The number of times an order may be reissued shall not be limited. With respect to whether an order should be reissued, any party may present to the court testimony relating to the importance of the fact that acts of domestic violence or abuse have not occurred during the pendency of the order.

(c)[~~(3)~~]Upon proper filing of a motion, either party may seek to amend a domestic violence order.

(d)[~~(4)~~] When temporary child support is granted under the provisions of this ***subsection***[~~section~~], the court shall enter an order detailing how the child support is to be paid and collected. The enforcement procedures for child support orders entered ***under***[~~pursuant to~~] KRS 403.211, 403.212, and 403.213, including but not limited to 403.215, shall be available to temporary child support orders issued under KRS 403.715 to 403.785.

(e)[~~(5)~~]Any order entered ***under***[~~pursuant to~~] this ***subsection***[~~section~~] restraining a party or parties to an action shall be issued without bond being required of the petitioner.

(2) Following the hearing provided for under KRS 403.740 and 403.745, if the court finds from a preponderance of the evidence that an act of domestic violence and abuse has not occurred and will not occur, the adverse party may file a motion seeking an expungement of the emergency protective order, if such an order has been issued. The emergency protective order expungement motion shall be filed on forms prescribed by the Administrative Office of the Courts after consultation with the Justice Cabinet and shall be filed no sooner than sixty (60) days following the hearing provided for under KRS 403.740 and 403.745. Following the filing of the motion, the court may set a date for a hearing. If the court does so, it shall notify the county or Commonwealth's attorney, as appropriate, of an opportunity for a response to the expungement motion. The court shall also notify the Office of General Counsel of the Cabinet for Families and Children of an opportunity for a response to the expungement motion. The counsel for the cabinet shall respond to the expungement motion, within twenty (20) days of receipt of the notice, which period of time shall not be extended by the court, if the cabinet has custody of records relating to the act of domestic violence or abuse to be expunged. If the cabinet fails to respond to the expungement motion or if the cabinet fails to prevail, the order of expungement shall extend to the cabinet's records. If the cabinet prevails, the order of expungement shall not extend to the cabinet's records. If the court finds that there are no current charges or proceedings pending relating to the matter for which the

expungement is sought, or any prior charges or proceedings indicating that the adverse party may pose a danger to petitioner or to others, the court may grant the expungement motion. After the expungement, the proceedings in the matter shall be deemed never to have occurred.

Section 2. Whereas an emergency protective order may be issued ex parte against an individual who has not committed an act of domestic violence, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Calendar

HB 746, HB 769, HB 795, HB 842, HB 732, HB 782, HB 832, HB 851, HB 744, HB 763, HJR 191, SB 56, SB 153, HB 707, HB 812, SB 59, SB 133, SB 138, SB 178, HB 748, HB 801, HB 857, HCR 132, HCR 218, and **SB 121** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 32** and **HB 456** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:58 p.m.)

Motions, Petitions and Communications

Representative Stumbo moved to suspend the rules to allow for a Rules Committee Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 270, HB 652, HB 821, HCR 177, HCR 182, HCR 185, HJR 186, HJR 188, HB 426, HB 506, HB 596, HB 661, HB 701, HB 708, HB 736, HB 739, HB 742, HB 777, HB 810, HJR 122, HCR 129, HCR 136, HJR 170, HJR 178, HJR 180, HCR 192, HCR 199, HB 846, HB 211, HB 243, HB 391, HB 707,** and **HB 746** have been posted for passage in the Orders of the Day for March 14, 2002.

Orders of the Day

HB 657, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved **HB 657** be passed. Agreed.

Representative Treesh moved that Floor Amendment No. 1 to **HB 657**, be adopted.

On the roll call the vote was: **Yeas 34, Nays 62**. (See March 13, 2002, roll call on **HB 657** - Appendix.)

Floor Amendment No. 1 to **HB 657**, was rejected.

Representative Moberly moved that **HB 657**, be passed.

On the roll call the vote was: **Yeas 88, Nays 9**. (See March 13, 2002, roll call on **HB 657** - Appendix.)

HB 657, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 657**, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 134 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HJR 134** be adopted.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 13, 2002, roll call on **HJR 134** - Appendix.)

HJR 134 was adopted.

Representative Moberly moved that the vote by which **HJR 134** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 658, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Floor Amendment No. 1 to **HB 658**. Agreed.

Representative Barrows moved to suspend the rules to consider Floor Amendment No. 3 to **HB 658**. Agreed.

Representative Barrows moved the adoption of Floor Amendment No. 3 to **HB 658**. Agreed.

Representative Moberly moved that **HB 658**, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 13, 2002, roll call on **HB 658** - Appendix.)

HB 658, as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 658**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 32** and **HB 456** were delivered to the Senate and signed by the President. Delivered to the Governor on March 13, 2002, at 4:25 p.m.

Orders of the Day (Continued)

HJR 133 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HJR 133** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 13, 2002, roll call on **HJR 133** - Appendix.)

HJR 133 was adopted.

Representative Moberly moved that the vote by which **HJR 133** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 507, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 507**. Agreed.

Representative Moberly moved the adoption of Floor Amendment No. 17 to **HB 507**. Agreed.

Representative J. Lee moved the adoption of Floor Amendment No. 16 to **HB 507**. Agreed.

Representative Nesler moved the adoption of Floor Amendment No. 23 to **HB 507**. Agreed.

Representative Nunn moved to suspend the rules to consider Floor Amendment No. 6 to **HB 507**. Agreed. Representative Nunn moved the adoption of Floor Amendment No. 6 to HB 507. Agreed.

Speaker Pro Tem L. Clark assumed the chair.

Speaker Richards resumed the chair.

Representative Moberly moved that **HB 507**, by way of Committee Substitute, as amended, be passed.

Representative Cornett moved the adoption of Floor Amendment No. 19 to **HB 507**.

On the roll call the vote was: **Yeas 39, Nays 39**. (See March 13, 2002, roll call on - Appendix.)

Floor Amendment No. 19 to **HB 507** was rejected.

Representative Wayne moved the adoption of Floor Amendment No. 8 to **HB 507**.

Representative Hoover inquired whether Floor Amendment No. 8 to **HB 507** contained the substantial text of the language of another bill introduced during the session and therefore in violation of the House Rule No. 61.

Speaker Richards ruled that Floor Amendment No. 8 to **HB 507** was not in violation of House Rules.

Representative Lindsay inquired if Floor Amendment No. 8 to **HB 507** related to a subject matter other than that of the title to the bill.

Speaker Richards ruled that Floor Amendment No. 8 to **HB 507** was germane to the title of the bill.

Representative Hoover inquired whether a Roll Call vote to suspend the rules was in violation of House Rule No. 76.

Representative Hoover withdrew his inquiry.

Representative Upchurch moved to lay Floor Amendment No. 8 to **HB 507** on the Table.

Speaker Richards ruled the motion out of order.

Representative Wayne moved the adoption of Floor Amendment No. 8 to **HB 507**.

On the roll call the vote was: **Yeas 9, Nays 82**. (See March 13, 2002, roll call on - Appendix.)

Floor Amendment No. 8 to **HB 507** was rejected.

Representative Coleman moved the adoption of Floor Amendment No. 2 to **HB 507**.

On the roll call the vote was: **Yeas 29, Nays 54**. (See March 13, 2002, roll call on - Appendix.)

Floor Amendment No. 2 to **HB 507** was rejected.

Representative Wayne moved the adoption of Floor Amendment No. 9 to **HB 507**.

Representative Lindsay inquired whether Floor Amendment No 9 to **HB 507** was germane.

Speaker Richards ruled that Floor Amendment No. 9 to **HB 507** was Germane.

On the roll call on the adoption of Floor Amendment No. 9 to **HB 507** the vote was: **Yeas 25, Nays 58**. (See March 13, 2002, roll call on - Appendix.)

Floor Amendment No. 9 to **HB 507** was rejected.

Representative Wayne moved the adoption of Floor Amendment No. 10 to **HB 507**.

Representative Hoover inquired whether Floor Amendment No. 10 to **HB 507** contained the substantiated text of **HB 447** introduced in this session.

Speaker Richards ruled yes and that Floor Amendment No. 10 to **HB 507** was a piggyback.

Representative Wayne moved to suspend the rules to consider Floor Amendment No. 10 to **HB 507**.

On the roll call the vote was: **Yeas 21, Nays 66**. (See March 13, 2002, roll call on - Appendix.)

The motion to suspend the rules to consider Floor amendment No. 10 to **HB 507** was rejected.

Representative Fischer moved the adoption of Floor Amendment No. 21 to **HB 507**.

Representative Stein inquired where Floor Amendment No. 21 to **HB 507** contained the substantial text of **HB 138** introduced in this session.

Speaker Richards ruled yes and that Floor Amendment No. 21 to **HB 507** was a piggyback.

Representative Fischer moved to suspend the rules to consider Floor Amendment No. 21 to **HB 507**.

On the roll call the vote was: **Yeas 37, Nays 52**. (See March 13, 2002, roll call on - Appendix.)

The motion to suspend the rules to consider Floor Amendment No. 21 to **HB 507** was rejected.

Representative Moberly moved that **HB 507**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 1**. (See March 13, 2002, roll call on **HB 507** - Appendix.)

HB 507, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 507**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 87 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HJR 87** be adopted.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 13, 2002, roll call on **HJR 87** - Appendix.)

HJR 87 was adopted.

Representative Moberly moved that the vote by which **HJR 87** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved to suspend the rules to waive the posting requirement on the following: **SB 197**. Agreed.

Representative Stumbo moved that the rules be suspended for the Introduction of bills and resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 236, by Representatives Westrom, Richards and Webb: A RESOLUTION adjourning the House of Representatives in loving memory and honor of William Andrew Cannon.

Posting of Bills for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Health and Welfare: **SB 164**

Motions, Petitions and Communications (Continued)

Representative Nesler moved the adoption of the following **HR 232**:

HR 232, A RESOLUTION adjourning the House of Representatives in loving memory and honor of William C. Dillon, Sr.

With deepest respect and admiration, we pay homage and tribute to William C. Dillon, Sr., and we pause in silent reverence for his soul.

WHEREAS, William C. Dillon, Sr., a native of Mayfield, Graves County, Kentucky, traversed these earthly bounds on February 27, 2002; he was the loving son of the late Douglas D. and Willie Bell Price Dillon, and he was the devoted husband of forty years to Emma Lee Dillon, and the loving father of four sons, Steve Winn and Gary Winn, both of Mayfield, and Carey Dillon and Tim Dillon, both of Benton, and a loving daughter, Barbara Winn Jones of Wickliffe, and he was the proud grandfather of fifteen grandchildren and fourteen great-grandchildren; and

WHEREAS, William C. Dillon, Sr. is also survived by four brothers, Paul Dillon, of Wingo, Richard Dillon and John Dillon, both of Mayfield, and Raymond Dillon of Valley Park, Missouri; and two loving sisters, Dorothy Dillon Vaughn and Kay Dillon Riley, both of Mayfield; and

WHEREAS, William C. Dillon, Sr. was an esteemed member of the Graves County community where he was a member of the Cuba Church of Christ; he retired after twenty-six years of faithful service as branch manager of the American National Insurance Company in Paducah, and he also was a former employee of McDonald-Douglas Aircraft in St. Louis, Missouri; and he served his country with pride and distinction in the United States Army during the Korean War; and

WHEREAS, the passing of William C. Dillon, Sr. has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of William C. Dillon, Sr., and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of William C. Dillon, Sr.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Emma Lee Dillon, 71 Crestwood Road, Mayfield, Kentucky 42066.

There being no objection **HR 232** was adopted.

Representative Graham moved the adoption of the following **Legislative Citation No. 89**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to James Stuart Victor, Jr. upon his 88th Birthday ~Born March 13, 1914~ In celebration of this memorable event, the entire membership joins with Representative Gippy Graham in commending this remarkable and dearly loved citizen for a life lived to the fullest and for the vitality of heart which has brought him thus far. Born in Bell County to the late Florence Walker and James Stuart Victor, Sr., Mr. Victor; the husband of the late Agnes Martha Rowan; the beloved father of four children and cherished grandfather of eight grandchildren and seven great-grandchildren, he was a valiant member of the United States Army Air Corps during World War II, stationed in the Philippines, Australia and New Guinea; moved to Frankfort in 1961 to work for the Department of Transportation during the administration of Governor Bert T. Combs, and continued to serve with great distinction until his retirement in 1980. This distinguished body hereby extends best wishes to this talented and highly-esteemed citizen on the meaningful occasion of his 88th birthday. Done in Frankfort, Kentucky, this thirteenth day of March, in the year two thousand and two.

Legislative Citation No. 89 was adopted without objection.

Representative Dw. Butler moved to withdraw **HB 530**. Agreed.

Representative Geveden moved to withdraw Floor Amendment No. 7 to **HB 68**. Agreed.

Representative Riner moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Riner moved that his vote be changed from "yea" to "nay" on Floor Amendment No. 1 to **HB 657**. Agreed.

Representative Reinhardt moved that his vote be changed from "nay" to "yea" on **HB 657** and **HB 129**. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HB 507**. Agreed.

Representative Reinhardt moved that his vote be changed from "yea" to "nay" on **HB 481**. Agreed.

Representative Smith moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Smith moved that he be recorded as voting "yea" on **HB 658**. Agreed.

Representative Ford moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Ford moved that he be recorded as voting "yea" on **HB 657** and **HJR 134**. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Nesler moved that he be recorded as voting "yea" on Floor Amendment No. 9 to **HB 507**. Agreed.

Representative Nesler moved that his vote be changed from "nay" to "yea" on Floor Amendment No. 1 to **HB 657**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "nay" on Floor Amendment No. 8. on **HB 507**. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 613, HB 467, HB 126, HB 679, HB 703, SB 61, SB 26,** and **SB 4**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 3 to **HB 658**, by Representative Barrows:

On page 5, between lines 2 and 3, insert the following: " Nothing in this Act shall reduce the funding of court facility projects authorized by the General Assembly."

Floor Amendment No. 1 to **HB 714**, by Representative Barrows:

On page 3, after line 25, by inserting;

"SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that in 1992, in recognition and furtherance of the leadership role of the Kentucky River Authority regarding the waters of the Kentucky River basin, the Natural Resources and Environmental Protection Cabinet was directed to issue water-related permits only if the permits were consistent with the long-range water resource plan and drought response plan developed by the authority. The General Assembly determines that it is now necessary to extend the leadership of the authority into deliberations on water supply services provided by public utilities. To accomplish this goal, the General Assembly declares that orders by the commission relating to the rules, regulations, practices, equipment, appliances, facilities, or service, or to the method of manufacture, distribution, transmission, storage, or supply employed by, any water utility subject to its jurisdiction shall be consistent with the administrative regulations promulgated by the Kentucky River Authority, and the long-range water resource plan and drought response plan developed by the authority. The commission shall request the authority to submit the authority's finding of consistency on any matter before the commission related to a water utility and shall not issue an order on the matter unless the authority has submitted a finding of consistency."; and

on line 26, by renumbering "Section 2" as "Section 3"; and

on line 27, after "by" by deleting "this Act," and inserting "Section 1 of this Act, Section 1 of" and after "2003." by inserting "The Kentucky River Authority shall review the current water use fees implemented under KRS 151.723 to determine if the fees may be discounted or eliminated based upon such factors as rate of water usage, convenience to the payor, administrative efficiency, or other factors deemed relevant by the authority. The authority shall report its findings and make recommendations to the Legislative Research Commission by November 15, 2003."

Floor Amendment No. 1 to **HB 707**, by Representative Stacy:

On page 3, by deleting lines 8 and 9 in their entirety and inserting in lieu thereof the following:

"P.O. Box 23200
Louisville, Kentucky 40223"; and

On page 8, by deleting lines 22 and 23 in their entirety and inserting in lieu thereof the following:

"100 Caddy Road
Rotonda West, Florida 33947".

Floor Amendment No. 1 to **SB 196**, by Representative Comer:

On page 2, after line 27, by inserting the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

An ambulance provider or emergency medical services provider shall be permitted to refuse to transport from one (1) medical facility to another a patient who has presented with a mental condition that has involved a physical or verbal threat to the patient or to any other person. The provider may use professional discretion to determine whether the transport is appropriate by that provider.".

Floor Amendment No. 1 to the Committee Substitute to **HB 873**, by Representative Rasche:

Beginning on page 4, line 16 delete all language through the end of line 18 on page 12.

Floor Amendment No. 1 to the Committee Substitute to **HB 748**, by Representative Geveden:

On page 2, line 3, after the word "*organization*" by inserting "*pursuant to Section 1 of this Act or any other organization which exists for the purpose of supporting the rights and benefits of state employees*".

Floor Amendment No. 1 to the Committee Substitute to **HB 801**, by Representative Thomas:

On page 7, line 15, by adding after "Section 2." the following:

" KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating county after the date the county first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3), and except that mayors and members of city legislative bodies may decline prior to their participation in the system and city managers or other appointed local government executives who participate in a retirement system, other than Social Security, which operates in more than one (1) state, may decline prior to their participation in the system;

(2) (a) All persons who are employees of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following the county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852;

(b) All persons who are employees of a county who did not elect to participate within thirty (30) days of the date the county first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the county's date of participation; ~~[and]~~

(3) All persons ***who declined participation in subsection (1) of this section and who later elect to participate. Persons who elect to participate under this subsection may purchase service credit for any prior years by paying a delayed contribution payment. The service shall not be included in the member's total service for purposes of determining benefits under KRS: 61.702; and***

(4) *All persons* electing coverage in the system under KRS 78.530(3)(d).

(5)~~[(4)]~~ The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621, or 95.852 shall not be required to provide membership in the County Employees Retirement System to employees in any employee category not covered by a city pension system at the date of participation.

(6)~~[(5)]~~ Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute KRS 21.360.

Section 3.".

Floor Amendment No. 1 to the Committee Substitute to **HB 294**, by Representative Geveden:

On page 7, line 9, delete "August 1, 2002" and insert in lieu thereof "January 1, 2003".

Floor Amendment No. 2 to **HB 768**, by Representative S. Lee:

On page 56, line 14, by deleting "*(f)*" and inserint "*(g)*" in lieu thereof;

On page 59 , line 4, after "*(f)*" by inserting the following:

" ***After payment of the costs and expenses described in paragraph (c) of this subsection, five million dollars ($5,000,000) of the annual gaming income shall be disbursed to the Kentucky Department of Education to provide compulsive gaming classes for all students in both the eighth and twelfth grades in the public schools. The classes shall be mandatory for all students in those grades and shall be designed to protect Kentuckians from the proliferation of gaming and allow them to make informed decisions on whether to participate in gaming. The Kentucky Department of Education shall establish the curricula to be used and shall seek the assistance of parents, teachers, and mental health professionals in developing the curricula. The curriculum shall be age-appropriate and at a minimum, shall include an analysis of the costs and benefits of gaming, including any social costs, the warning signs for identifying problem gamblers, the emotional and pathological makeup of the problem gambler, and the forms of gaming more likely to lead to addiction if a person is predisposed to gaming or has a propensity to gamble.***

(g)"; and

On page 59, line 6, by deleting "*(e)*" and Inserting "*(f)*" in lieu thereof.

Floor Amendment No. 1 to **HB 768**, by Representative S. Lee:

On page 2, lines 10 and 11, by deleting the lines in their entirety;

On page 2, line 12, by deleting "*(8)*" and inserting "*(7)*" in lieu thereof;

On page 2, line 15, by deleting "*(9)*" and inserting "*(8)*" in lieu thereof;

On page 2, line 18, by deleting "*(10)*" and inserting "*(9)*" in lieu thereof;

On page 2, line 23, by deleting "*(11)*" and inserting "*(10)*" in lieu thereof;

On page 70, line 24, by deleting "*twenty-one (21)*"and inserting "*twelve (12)*" in lieu thereof;

On page 72, line 18, by deleting "*twenty-one (21)*"and inserting "*twelve (12)*" in lieu thereof;

On page 72, lines 23 and 24, by deleting "*twenty-one (21)*" and inserting "*twelve (12)*" in lieu thereof;

On page 106, between lines 17 and 18, by inserting the following:

"SECTION 58. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

The General Assembly provides that non-state supported financial assistance to Kentucky's horse racing and breeding industry and financial assistance for the many human, social, and other governmental needs that remain unfunded because of the state budget shortfall be met through the generation of new revenues by the operation of electronic gaming devices at licensed racetracks. The General Assembly finds and declares that promoting excellence in racing through higher purses for horsemen, renovation, and the modernization of the state's aging racetracks, meeting the unmet needs of the young, poor, elderly, and sick in the Commonwealth, and boosting the state's tax base by creating new jobs and expanding tourism are of the utmost importance and these purposes shall be further realized by requiring that all racetracks on which electronic gaming devices are located allow:

(1) Persons sixteen (16) years of age or older to drink alcoholic beverages;

(2) Persons fourteen (14) years of age or older to smoke or partake of cigarettes and other tobacco products; and

(3) Persons twelve (12) years of age or older to play electronic gaming devices."; and

Renumber the other sections accordingly.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 805, Representatives R. Adams and Kerr

HB 819, Representatives L. Clark and Haydon

HB 857, Representative S. Lee

HCR 161, Representatives De. Butler and Dw. Butler.

Announcements

The following meetings were announced:

Natural Resources: upon adjournment, Room 131

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m. on Thursday, March 14, 2002.

The motion that the House adjourn until 2:00 p.m., Thursday, March 14, 2002, was adopted by voice vote.

THURSDAY, MARCH 14, 2002

FORTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Nelson French, Executive Director, All Faiths Foundation, Lexington, KY.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of Wednesday, March 13, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Education: **SB 166, 167, 243, 254**

Health and Welfare: **SB 150**

Judiciary: **SB 220**

Local Government: **SB 126**

Natural Resources and Environment: **SCR 49**

Transportation: **SB 238, SJR 109**

House Floor: **HR 233, 234, 235, 236**

Senate Message

Announcing passage of **SB 210, SB 219, SB 227, SB 255, SJR 113, SCR 142,** and **HB 152**. (Time: 2:15 p.m.)

Report of Committees

The Committee on Rules reported that **HB 475, HB 688, HB 721, HB 743, HB 757, HB 804, SB 147, SB 170,** and **SB 176** have been posted for passage in the Orders of the Day for March 15, 2002.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **SB 203, SB 11**

Report of Committees (Continued)

The Committee on Natural Resources and Environment reported **HB 408,** with Committee Substitutes and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee Substitute No. 2 to **HB 408** is as follows:

HB 408, AN ACT relating to air quality.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall require electric utilities to:

(a) Inform all Kentucky coal operators of a utility's request for bids on a purchase coal contract; and

(b) Require the bidder to disclose the amount of coal severance and unmined minerals tax to be remitted to the Commonwealth under KRS 132.820 and 143.020 on the coal specified in the bid for the purchase coal contract.

(2) When conducting a review of a utility's coal purchase contract for the purpose of disallowing any portion of the contract price in the utility's rates, the commission shall require the utility to:

(a) Identify any Kentucky suppliers that submitted bids for the utility's consideration; and

(b) Submit the bids by suppliers that remit tax to the Commonwealth under KRS 132.820 or 143.020 to the commission when it submits the original purchase coal contract for commission review.

(3) If the utility accepts a bid from a supplier that does not remit a tax under KRS 132.820 or 143.020, the commission shall:

(a) Determine the amount of coal severance and unmined minerals tax lost to the Commonwealth for the purchase coal contract under commission review;

(b) Apply the tax lost as an offset to be added to the contract price for the coal. The commission may determine an appropriate ceiling for the tax loss offset; and

(c) Compare the lowest bid by a supplier that remits tax to the Commonwealth under KRS 132.820 or KRS 143.020 to the contract price for the coal after adding the offset prescribed in paragraph (b) of this subsection.

(4) The commission, after comparing bids in subsection (3)(c) of this section, may disallow any portion of the contract price that is greater than the lowest bid for a supplier that remits a tax under KRS 132.820 or 143.020.

(5) In determining the reasonableness of a purchase coal contract, the commission may develop a method to consider:

(a) Macroeconomic factors such as the associated value of the coal contract on the local economy in the form of lost wages and benefits; and

(b) Any environmental costs pursuant to the contract that would require the utility to purchase additional nitrogen oxide (NOx) allowances that would otherwise not be needed to meet emissions limitations if another bid were accepted.

(6) The commission shall promulgate administrative regulations to implement the provisions of this section.

The Committee Amendment No. 1 Title to **HB 408** is as follows:

On page 1, by amending the title to read "AN ACT relating to electric utilities.".

The Committee on Health and Welfare reported **HB 819**, with Committee Substitute and Committee Amendment attached thereto, **SB 113**, **SB 142**, **SB 185**, with Committee Substitute attached thereto, and **SB 196** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 819, AN ACT relating to prescription drugs for seniors and Medicare beneficiaries and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 205.510 TO 205.645 IS CREATED TO READ AS FOLLOWS:

The Department for Medicaid Services shall apply to and negotiate with the Centers for Medicare and Medicaid Services for a waiver to provide outpatient prescription drug coverage for individuals who:

(1) Are sixty-five (65) years of age or older or are receiving Medicare;

(2) Are residents of Kentucky;

(3) Have not been covered by health insurance that includes a prescription drug benefit for at least six (6) months immediately preceding their application for enrollment in the Kentucky Prescription Drug Program for Seniors and Medicare Beneficiaries; and

(4) Have an annual household income at or below two hundred percent (200%) of the federal poverty level.

SECTION 2. A NEW SECTION OF KRS 205.510 TO 205.645 IS CREATED TO READ AS FOLLOWS:

(1) If the federal Medicaid waiver applied for under Section 1 of this Act is approved, the Kentucky Prescription Drug Program for Seniors and Medicare Beneficiaries shall be created when state matching funds are available at the regular state match rate or when the Federal Centers for Medicare and Medicaid Services provides an enhanced federal matching rate for low-income Medicare beneficiaries.

(2) Enrollment in the program shall be phased into operation as follows:

(a) Qualified Medicare Beneficiaries shall be enrolled upon approval by the federal Centers for Medicare and Medicaid Services and availability of state matching funds;

(b) Specified Low-Income Medicare Beneficiaries shall be enrolled during the second fiscal year that the program is in operation, or as funds become available, whichever occurs first; and

(c) Individuals with incomes up to two hundred percent (200%) of the federal poverty level shall be enrolled in the order of the following increments, as state matching funds are available:

1. Individuals with incomes at or below the federal poverty level;

2. Individuals with incomes at or less than one hundred twenty percent (120%) of the federal poverty level;

3. Individuals with incomes at or below one hundred fifty percent (150%) of the federal poverty level; and

4. Individuals with incomes at or below two hundred percent (200%) of the federal poverty level.

(3) The program shall include the following cost-sharing components:

(a) Annual enrollment fee of five dollars ($5) for participants with a household income at or below the federal poverty level;

(b) Annual enrollment fee of twenty-five dollars ($25) for participants with a household income greater than the federal poverty level;

(c) Copayments equal to one dollar ($1) for generic drugs and five ($5) for brand name drugs for participants with incomes greater than the federal poverty level, until the accumulated total paid by the program reaches a threshold of one thousand seven hundred and fifty dollars ($1,750) and twenty percent (20%) of Medicaid's cost of the drug thereafter; and

(d) Copayments, in addition to cost-sharing requirements under paragraph (c) of this subsection, that are equal to the difference between the cost of a generic and brand name drug, if a generic drug is available and the participant prefers the brand name, unless the drug is a federally defined narrow therapeutic index drug and substitution is not permitted because the physician has indicated "brand medically necessary";

(4) The department shall include in the waiver application a request for flexibility to modify the copayment to an upper limit of ten dollars ($10) and to lower the threshold to one thousand dollars ($1,000) in total accumulated department expenditures for a participant prior to requiring a copayment of twenty percent (20%).

(5) The waiver application shall include an option to limit the number of participants to ensure that the accumulated state expenditures for the program do not exceed the funds available for the state match.

(6) If the federal Centers for Medicare and Medicaid Services does not agree with the cost sharing provisions of subsection (3) of this section or the provisions to phase in the program under subsection (2) of this section, the cabinet shall negotiate those terms with the Centers for Medicare and Medicaid Services.

(7) The cabinet shall market the program to inform potential eligible seniors and Medicare beneficiaries about the program's existence, eligibility guidelines, application process, and cost sharing features.

(8) Prior to September 1, 2003, the cabinet shall submit the following reports to the Legislative Research Commission:

(a) Projections of the utilization and expenditures for the program for fiscal years 2004-2006; and

(b) A report summarizing consumer demographics and utilization review results, and any other information deemed necessary by the cabinet or requested by the Legislative Research Commission.

SECTION 3. A NEW SECTION OF KRS 205.510 TO 205.645 IS CREATED TO READ AS FOLLOWS:

(1) There is established and created in the State Treasury an agency account and trust fund entitled Kentucky prescription drug fund for seniors and Medicare beneficiaries. The fund may receive funds including grants, gift, enrollment fees, and copayments collected under the Kentucky Prescription Drug Program for Seniors and Medicare Beneficiaries created in Section 2 of this Act.

(2) Moneys deposited in the Kentucky Prescription Drug Fund for Seniors and Medicare Beneficiaries shall be used solely to provide prescription drug coverage for individuals participating in the Kentucky Prescription Drug Program for Seniors and Medicare Beneficiaries, except that any funds not expended at the end of each fiscal year may be used to expand community based services for seniors.

Section 4. The General Assembly finds and declares that:

(1) Prescriptions drug expenditures increased by 17% during 1999 and are expected to continue to increase at 15-18% annually;

(2) Americans ages 65 and older pay an average of $1,205 a year for prescription medications, up from $559 in 1992;

(3) The average cost per prescription for the elderly grew from $28.50 in 1992 to $42.30 in 2000, an increase of 48 percent;

(4) One in four Medicare beneficiaries do not have prescription drug coverage;

(5) Most Medicare beneficiaries use pharmaceuticals on a regular basis, filling about 22 prescriptions on average in 1998;

(6) Medicare beneficiaries without drug coverage average about eight fewer prescriptions per year than those with coverage;

(7) Individuals without prescription drug coverage typically pay an average of six times more for their generic medications, and three times as much for brand name medications;

(8) Prescription drugs positively affect health outcomes and result in decreased utilization of other more expensive health services, including emergency room utilization and hospitalization;

(9) Many seniors must make choices between proper nutrition and the prescriptions that they need; and

(10) It is in the interest of the seniors of Kentucky to identify strategies to improve access to prescription drug coverage.

Section 5. The Legislative Research Commission is directed to establish a fourteen-member task force to complete a study to identify strategies to create and fund a prescription drug program for seniors. The study shall include but not be limited to the following:

(1) Analysis of senior drug programs in other states;

(2) Identification of federal and state funding streams for prescription drug coverage for seniors;

(3) Description of the Medicaid waiver process for prescription drug coverage for seniors;

(4) Analysis of state waiver programs for prescription drug coverage for seniors;

(5) Analysis of President Bush's proposals to provide prescription drug coverage for seniors;

(6) Analysis of prescription drug patient assistance programs offered by drug manufacturers; and

(7) Analysis of strategies to coordinate various funding sources to provide prescriptions drug coverage for seniors.

Section 6. The task force shall consist of the following members:

(1) Two members of the Senate appointed by the President of the Senate, with one member being from the majority party and one member being from the minority party;

(2) Two members of the House of Representatives appointed by the Speaker of the House of Representatives, with one member being from the majority party and one member being from the minority party;

(3) The secretary of the Cabinet for Health Services;

(4) The commissioner of the Department for Medicaid Services;

(5) The chair of the Special Advisory Commission of Senior Citizens;

(6) The executive director or designee of the American Association of Retired Persons, Kentucky State Office;

(7) The executive director or designee of the Office of Aging Services; and

(8) Five members appointed by the Legislative Research Commission, with one member representing each of the following interests:

  (a) A pharmacist;

  (b) A physician;

  (c) A pharmaceutical manufacturer;

  (d) A rural health care provider or health care advocate; and

  (e) A representative of the Kentucky Association of Gerontology.

The President of the Senate shall appoint a co-chair from among the Senate members, and the Speaker of the House of Representatives shall appoint a co-chair from among the House of Representatives members.

Section 7. The task force shall submit a final report of its finding and recommendations to the Legislative Research Commission, the Interim Joint Committee on Health and Welfare, and the Interim Joint Committee on Banking and Insurance no later than November 30, 2002.

Section 8. Provisions of Sections 4 to 7 of this Act notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Section 9. There is appropriated $25,000,000 for fiscal year 2002-2003 and $25,000,000 for fiscal year 2003-2004 from any funds collected from video lottery terminals authorized in any legislation in this 2002 Regular Session to fund the Kentucky Prescription Drug Program for Seniors and Medicare Beneficiaries created in Section 2 of this Act.

Section 10. If the federal government creates a prescription drug program for Medicare beneficiaries, individuals eligible under that program shall be ineligible for the Kentucky Prescription Drug Program for Seniors and Medicare Beneficiaries.

Section 11. Funds appropriated under Section 9 of this Act that are not expended on the Kentucky Prescription Drug Program for Seniors and Medicare Beneficiaries shall be used to expand community based services for seniors.

The Committee Substitute to **HB 819** is as follows:

HB 819, AN ACT relating to prescription drugs for seniors and Medicare beneficiaries and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 205.510 TO 205.645 IS CREATED TO READ AS FOLLOWS:

The Department for Medicaid Services shall apply to and negotiate with the Centers for Medicare and Medicaid Services for a waiver to provide outpatient prescription drug coverage for individuals who:

(1) Are sixty-five (65) years of age or older or are receiving Medicare;

(2) Are residents of Kentucky;

(3) Have not been covered by health insurance that includes a prescription drug benefit for at least six (6) months immediately preceding their application for enrollment in the Kentucky Prescription Drug Program for Seniors and Medicare Beneficiaries; and

(4) Have an annual household income at or below one hundred fifty percent (150%) of the federal poverty guidelines.

SECTION 2. A NEW SECTION OF KRS 205.510 TO 205.645 IS CREATED TO READ AS FOLLOWS:

(1) If the federal Medicaid waiver applied for under Section 1 of this Act is approved, the Kentucky Prescription Drug Program for Seniors and Medicare Beneficiaries shall be created when state matching funds are available at the regular state match rate or when the Federal Centers for Medicare and Medicaid Services provides an enhanced federal matching rate for low-income Medicare beneficiaries.

(2) Enrollment in the program shall be phased into operation as follows:

- *(a) Qualified Medicare Beneficiaries shall be enrolled upon approval by the Federal Centers for Medicare and Medicaid Services and availability of state matching funds;*
- *(b) Specified Low-Income Medicare Beneficiaries shall be enrolled during the second fiscal year that the program is in operation, or as funds become available, whichever occurs first; and*
- *(c) Individuals with incomes up to one hundred fifty percent (150%) of the federal poverty guidelines shall be enrolled in the order of the following increments, as state matching funds are available:*
  - *1. Individuals with incomes at or below the federal poverty guidelines;*
  - *2. Individuals with incomes at or less than one hundred twenty percent (120%) of the federal poverty guidelines; and*
  - *3. Individuals with incomes at or below one hundred fifty percent (150%) of the federal poverty guidelines.*

(3) (a) The program shall include the following cost-sharing components:

  - *1. Annual enrollment fee of five dollars ($5) for participants with a household income at or below the federal poverty guidelines;*
  - *2. Annual enrollment fee of twenty-five dollars ($25) for participants with a household income greater than the federal poverty guidelines;*
  - *3. Copayment equal to twenty percent (20%) of the cost of the drug; and*
  - *4. Benefits shall be limited to a maximum of two thousand dollars ($2,000) per participant per year, based upon the date of enrollment.*

- *(b) The department may require copayments in addition to the cost-sharing requirements under subparagraph 3. of paragraph (a) of this subsection.*

(4) The department may contract with a pharmacy benefit manager to administer the Kentucky Prescription Drug Program for Seniors and Medicare Beneficiaries created under Section 2 of this Act.

(5) The waiver application shall include an option to limit the number of participants to ensure that the accumulated state expenditures for the program do not exceed the funds available for the state match.

(6) If the Federal Centers for Medicare and Medicaid Services does not agree with the cost sharing provisions of subsection (3) of this section or the provisions to phase in the program under subsection (2) of this section, the cabinet shall negotiate those terms with the Centers for Medicare and Medicaid Services.

(7) The amount of any manufacturer rebates collected under the Kentucky Prescription Drug Program for Seniors and Medicare Beneficiaries shall be equal to the Medicaid rebate level as calculated under 42 U.S.C. sec. 1396r-8. The state portion of all manufacturer rebates for all outpatient drugs provided to Medicaid recipients enrolled in the Kentucky Prescription Drug Program for Seniors and Medicare Beneficiaries and all enrollment fees collected under the program shall be deposited in the Kentucky prescription drug fund for seniors and Medicare beneficiaries.

(8) The amounts received by pharmacies for copayments shall be deducted from the reimbursement paid to the pharmacy providing the prescription drugs, to the extent that the pharmacy is reimbursed at the Medicaid rate for each drug dispensed under the Kentucky Prescription Drug Program for Seniors and Medicare Beneficiaries.

(9) Thirty (30) days prior to submitting the waiver required in Section 1 of this Act to the Centers for Medicare and Medicaid Services, the cabinet shall submit the waiver application and related documents to the Legislative Research Commission, the Interim Joint Committee on Health and Welfare, and the Medicaid Managed Care Oversight Advisory Committee.

(10) Prior to September 1, 2003, the cabinet shall submit the following reports to the Legislative Research Commission:

- *(a) Projections of the utilization and expenditures for the program for fiscal years 2004-2006; and*
- *(b) A report summarizing consumer demographics and utilization review results, and any other information deemed necessary by the cabinet or requested by the Legislative Research Commission.*

SECTION 3. A NEW SECTION OF KRS 205.510 TO 205.645 IS CREATED TO READ AS FOLLOWS:

(1) There is established and created in the State Treasury an agency account and trust fund entitled Kentucky prescription drug fund for seniors and Medicare beneficiaries. The fund may receive rebates from drug manufacturers, state appropriations, federal funds, grants, gifts, and enrollment fees collected under the Kentucky Prescription Drug Program for Seniors and Medicare Beneficiaries created in Section 2 of this Act.

(2) Moneys deposited in the Kentucky prescription drug fund for seniors and Medicare beneficiaries shall be used solely to provide prescription drug coverage for individuals participating in the Kentucky Prescription Drug Program for Seniors and Medicare Beneficiaries, except that any funds not expended at the end of each fiscal year may be used to expand community based services for seniors.

Section 4. If the federal government creates a prescription drug program for Medicare beneficiaries, individuals eligible under that program shall be ineligible for the Kentucky Prescription Drug Program for Seniors and Medicare Beneficiaries.

Section 5. Any funds appropriated for the Kentucky Prescription Drug Program for Seniors and Medicare Beneficiaries that are not expended on that program shall be used to expand community based services for seniors.

The Committee Amendment No. 1 Title to **HB 819** is as follows:

By amending the title to read as follows:

"AN ACT relating to prescription drugs for seniors and Medicare beneficiaries."

SB 113, AN ACT relating to death certificates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 213.076 is amended to read as follows:

(1) A certificate of death or a provisional certificate of death for each death which occurs in the Commonwealth shall be filed with the cabinet or as otherwise directed by the state registrar prior to final disposition, and it shall be registered if it has been completed and filed in accordance with this section. The funeral director, or person acting as such, who first takes custody of a dead body shall be responsible for filing the certificate of death. The funeral director, or person acting as such shall obtain the required personal and statistical particulars from the person best qualified to supply them over the signature and address of the informant. The funeral director, or person acting as such, shall within five (5) days of the death, present the certificate to the attending physician, if any, or to the health officer or coroner as directed by the state registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record as required by this chapter.

(a) It shall be unlawful for an institution to release a dead human body until the funeral director, or person acting as such, has completed and filed with the local registrar or person in charge of the institution, a provisional certificate of death. If death occurs outside an institution, the provisional certificate shall be filed with the local registrar by the funeral director, or person acting as such, prior to final disposition of the dead body. A copy of the provisional certificate of death signed by the person with whom it was filed, shall constitute authority for the possession, transportation, and, except for cremation, final disposition of the body.

(b) All persons having in their possession a completed provisional certificate of death shall file the certificate at not more than weekly intervals with the local registrar.

(c) If the place of death is unknown but the dead body is found in the Commonwealth, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation subject to amendment upon completion of any postmortem examination required to be performed.

(d) If death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, and the place where it is first removed shall be considered the place of death. If a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, but the certificate shall show the actual place of death insofar as can be determined.

(2) If any certificate of death is incomplete or unsatisfactory, the state registrar shall call attention to the defects in the certificate and require the person responsible for the entry to complete or correct it. The state registrar may also require additional information about the circumstances and medical conditions surrounding a death in order to properly code and classify the underlying cause.

(3) The medical certification shall be completed, signed, and returned to the funeral director within five (5) working days after presentation to the physician, dentist, or chiropractor in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by KRS 72.400 to 72.475. In such cases, the coroner shall complete and sign the certificate within five (5) days after receiving results of the inquiry as required by KRS 72.400 to 72.475. In the

absence of the physician, dentist, or chiropractor, or with such person's approval, the certificate may be completed and signed by his associate physician, dentist, or chiropractor, or the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, or a physician employed by the local health department, if the individual has access to the medical history of the case and death is due to natural causes.

(4) If death occurs more than thirty-six (36) hours after the decedent was last treated or attended by a physician, dentist, or chiropractor, the case shall be referred to the coroner for investigation to determine and certify the cause of death. In the event that a coroner is not available to sign the certificate and there is no duly appointed deputy, the county judge/executive shall appoint a competent person to investigate the death and certify to its cause.

(5) *(a)* The physician, dentist, chiropractor, or coroner who certifies to the cause of death shall return the certificate to the funeral director, or person acting as such, who, in turn, shall file the certificate directly with the Office of Vital Statistics. Any certified copies of the record requested at the time of filing shall be issued in not more than two (2) working days.

(b) In the case of a death in which diabetes was an immediate, underlying, or contributing cause of or condition leading to death, the physician, dentist, chiropractor, or coroner who certifies to the cause of death shall check "yes" for each of the following questions on the death certificate:

1. "Did the deceased have diabetes?"; and

2. "Was diabetes an immediate, underlying, or contributing cause of or condition leading to death?".

(6) The Office of Vital Statistics shall provide self-addressed, color-coded envelopes for the funeral homes in the Commonwealth of Kentucky.

(7) Three (3) free verification-of-death statements shall be provided to the funeral director by the Office of Vital Statistics for every death in the Commonwealth of Kentucky.

(8) The body of any person whose death occurs in Kentucky shall not be interred, deposited in a vault or tomb, cremated or otherwise disposed of, or removed from or into any registration district, until a provisional certificate of death has been filed with the local registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the Cabinet for Health Services to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the Cabinet for Health Services and the local health department. The Cabinet for Health Services shall identify by regulation those communicable diseases which require blood and body fluid precautions. If a person who has been diagnosed as being infected with a communicable disease for which blood and body fluid precautions are required, dies within a health facility as defined in KRS 216B.015, the facility shall notify any embalmer or funeral director to whom the body will be transported of the need for such precautions. The notice shall be provided by including the statement "Blood and Body Fluid Precautions" on the provisional report-of-death form as prescribed by the Cabinet for Health Services. Lack of this notice shall not relieve any embalmer or funeral director from taking universal blood and body fluid precautions as are recommended by the United States Department of Health and Human Services, Centers for Disease Control for Morticians' Services. No embalmer or funeral director shall charge more for embalming the remains of a person with a communicable disease which requires blood and body fluid precautions than the price for embalming services listed on the price list funeral providers are required to maintain and provide to consumers pursuant to 16 C.F.R. Sec. 453.2 (1988).

(9) A burial-transit permit for the final disposition issued under the law of another state which accompanies a dead body or fetus brought into the Commonwealth shall be the authority for final disposition of the body or fetus in the Commonwealth and may be accepted in lieu of a certificate of death. There shall be noted on the face of the record made for return to the local registrar that the body was shipped to Kentucky for interment and the actual place of death.

(10) Nothing in this section shall be construed to delay, beyond a reasonable time, the interment or other disposition of a body unless the services of the coroner or the health officer are required or the Department for Public Health deems it necessary for the protection of the public health. If compliance with this section would result in unreasonable delay in the disposition of the body the funeral director, or person acting as such, shall file with the local registrar or deputy registrar prior to interment a provisional certificate of death which shall contain the name, date, and place of death of the deceased, the name of the medical certifier, and an agreement to furnish within ten (10) days a complete and satisfactory certificate of death.

(11) No sexton or other person in charge of any place in which interment or other disposition of dead bodies is made shall inter or allow interment or other disposition of a dead body or fetus unless it is accompanied by a copy of the provisional certificate of death. The sexton, or if there is no sexton, the funeral director, or person acting as such, shall enter on the provisional certificate over his signature, the date, place, and manner of final disposition and file the certificate within five (5) days with the local registrar.

(12) Authorization for disinterment, transportation, and reinterment or other disposition shall be required prior to disinterment of any human remains. The authorization shall be issued by the state registrar upon proper application. The provisions of this subsection shall apply to all manners of disposition except cremation and without regard for the time and place of death. The provisions of KRS 381.765 shall not apply to remains removed for scientific study and the advancement of knowledge.

(13) After a death certificate has been on file for five (5) years, it may not be changed in any manner except upon order of a court. Prior to that time, requests for corrections, amendments, or additions shall be accompanied by prima facie evidence which supports the requested change.

SECTION 2. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) Any certificate of death form developed or distributed by the Cabinet for Health Services shall contain the following questions:

(a) "Did the deceased have diabetes?"; and

(b) "Was diabetes an immediate, underlying, or contributing cause of or condition leading to death?".

(2) If the person completing the certificate of death fails to answer the questions identified in subsection (1) of this section, the state registrar shall call attention to the defects in the certificate and require the person responsible for the entry to complete or correct it.

SB 142, AN ACT relating to adult day health care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 205.510 TO 205.645 IS CREATED TO READ AS FOLLOWS:

An adult day health care program shall be required to provide skilled nursing services to Medicaid recipients only during the posted hours of operation.

SB 185, AN ACT relating to intermediate care facilities for the mentally retarded.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provisions contained in this chapter, a certificate of need shall not be required for an existing intermediate care facility for the mentally retarded ("ICF/MR") to add beds which shall be dedicated to providing respite services to individuals with an ICF/MR level of care for no more than thirty (30) days. The establishment of ICF/MR respite beds shall be limited to three (3) beds per fifty (50) ICF/MR beds in a facility and shall not be eligible for Medicaid certification.

The Committee Substitute to **SB 185** is as follows:

SB 185, AN ACT relating to intermediate care facilities for the mentally retarded.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provisions contained in this chapter, a certificate of need shall not be required for an existing intermediate care facility for the mentally retarded ("ICF/MR") to add beds which shall be dedicated to providing respite services to individuals with an ICF/MR level of care for no more than thirty (30) days. The establishment of ICF/MR respite beds shall be limited to three (3) beds per fifty (50) ICF/MR beds in a facility and shall not be eligible for Medicaid certification. Beds designated for respite services under this section shall comply with all applicable federal and state licensure requirements for intermediate care facilities for the mentally retarded.

SB 196, AN ACT relating to emergency medical services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.658 is amended to read as follows:

(1) At the discretion of the employer's medical director, a paramedic may perform any procedure specified in the most recent curriculum of the United States Department of Transportation training course for paramedics published by the United States Department of Transportation. An emergency medical technician may perform any procedure specified in the most recent curriculum of the United States Department of Transportation training course for emergency medical technicians. An emergency medical technician first responder may perform any procedure specified in the most recent curriculum of the United States Department of Transportation training course for emergency medical technician first responders. Any paramedic, emergency medical technician first responder, or emergency medical technician may perform any additional procedure authorized by the Kentucky Board of Emergency Medical Services if approved by the employer's medical director and within the scope of the designated practice based upon national practice standards. With the approval of the employer's medical director, a paramedic, emergency medical technician first responder, or emergency medical technician may perform any procedure specified in the most recent curriculum of the United States Department of Transportation training course for paramedics or the most recent national standard curriculum for emergency medical technicians-basic or

emergency medical technician first responder published by the United States Department of Transportation respectively, and other procedure authorized by the Kentucky Board of Emergency Medical Services. Nothing in this subsection shall prevent an employer from exercising reasonable fiscal control over the costs of providing emergency medical services to its citizens nor prevent the employer from exercising any reasonable control over paramedics, emergency medical technician first responders, or emergency medical technicians providing emergency medical care upon behalf of the licensed entity.

(2) Any paramedic may draw blood samples from a criminal defendant upon the request of a peace officer and the consent of the defendant, or without the consent of the defendant upon receipt of a court order requiring the procedure, if the paramedic is authorized to do so by his or her employer. The authorization shall be in writing and may be by general written policy of the employer and the service's medical director. The paramedic who drew the blood sample shall deliver the sample to the peace officer or other person specified by the court in a court order and shall testify in court with regard thereto upon service of a proper subpoena.

(3) *Any emergency medical technician-basic or paramedic may administer epinephrine to any person who the EMT-basic or paramedic has been called to attend if the EMT-basic or paramedic makes an assessment that the person is exhibiting symptoms consistent with an anaphylactic reaction. The EMT-basic or paramedic shall follow the medical protocol established by the medical director of the employing licensed ambulance service in determining the appropriate dose or doses of epinephrine and the routes for administration.*

(4) Paramedics shall be permitted to render services only under supervision of a qualified and licensed physician.

SECTION 2. A NEW SECTION OF KRS 311.652 TO 311.658 IS CREATED TO READ AS FOLLOWS:

Every ambulance provider in the Commonwealth shall:

(1) Maintain an adequate supply of epinephrine and disposable sterile needles and syringes on every ambulance that it operates; and

(2) Establish medical protocols to be used by EMT-basic providers and paramedics in determining symptoms of an anaphylactic reaction, the appropriate dose or doses of epinephrine, and the routes for administration.

The Committee on Transportation reported **HB 867**, with Committee Substitute attached thereto, **HCR 161**, **HJR 181**, **HJR 212**, and **SB 36**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 867, AN ACT relating to protecting the public safety through improved methods of issuing secure and tamper-proof operator's licenses and permits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 186.531 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A person twenty-one (21) years of age or older applying for an original, renewal, or transfer operator's license shall pay the circuit clerk a fee of twelve dollars ($12). The twelve dollar ($12) fee shall be subject to the provisions of KRS 186.535 and shall be divided as follows:

(a) The Transportation Cabinet shall receive seventy-eight percent (78%) that shall be used to comply with subsection (14) of this section; and

(b) The Administrative Office of the Courts shall receive twenty-two percent (22%) that shall be used to comply with subsection (15) of this section.

(2) A person under the age of twenty-one (21) applying for an operator's license shall pay the circuit clerk a fee of twelve dollars ($12) that shall be divided as fees are divided under subsection (1) of this section. An "Under 21" license shall be valid until the date the person attains the age of twenty-two (22). Upon turning age twenty-one (21) a person may surrender the "Under 21" license and be issued a regular operator's license under the provisions of subsection (1) of this section, or be issued a commercial driver's license under the provisions of KRS Chapter 281A, and the person shall not be required to wait until his or her twenty-second birthday before being issued a regular operator's license or commercial driver's license.

(3) A person applying for a commercial driver's instruction permit or operator's license shall pay the fee required by KRS Chapter 281A. Fees received for a commercial driver's instruction permit shall be divided as fees are divided under subsection (6) of this section. Fees received for a commercial driver's operator's license shall be divided as fees are divided under subsection (1) of this section.

(4) A person applying for an original, renewal, or transfer motorcycle operator's license shall pay the circuit clerk a fee of sixteen dollars ($16). The sixteen dollar ($16) fee shall be subject to the provisions of KRS 186.535 and KRS 186.890 and shall be divided as follows:

(a) The Transportation Cabinet shall receive thirty-three percent (33%) that shall be used to comply with subsection (14) of this section; and

(b) The Administrative Office of the Courts shall receive sixty-seven percent (67%) that shall be used to comply

with subsection (15) of this section.

(5) A person applying for an original or renewal combination motor vehicle-motorcycle operator's license shall pay the circuit clerk a fee of twenty-two dollars ($22). The twenty-two dollar ($22) fee shall be subject to the provisions of KRS 186.535 and KRS 186.890 and shall be divided as follows:

(a) The Transportation Cabinet shall receive eighty-three percent (83%) that shall be used to comply with subsection (14) of this section; and

(b) The Administrative Office of the Courts shall receive seventeen percent (17%) that shall be used to comply with subsection (15) of this section.

(6) A person applying for an instruction permit to operate a motor vehicle shall pay a twelve dollar ($12) fee. A person applying for an instruction permit to operate a motorcycle shall pay a sixteen dollar ($16) fee. The twelve dollar ($12) fee shall be subject to the provisions of KRS 186.535 and the sixteen dollar ($16) fee shall be subject to the provisions of KRS 186.535 and KRS 186.890. All fees paid for an instruction permit shall be divided as follows:

(a) The Transportation Cabinet shall receive thirty-three percent (33%) that shall be used to comply with subsection (14) of this section; and

(b) The Administrative Office of the Courts shall receive sixty-seven percent (67%) that shall be used to comply with subsection (15) of this section.

(7) A person applying for a duplicate instruction permit or duplicate operator's license to operate a motor vehicle shall pay the circuit clerk a twelve dollar ($12) fee. A person applying for a duplicate instruction permit or duplicate operator's license to operate a motorcycle shall pay a sixteen dollar ($16) fee. The twelve dollar ($12) fee shall be subject to the provisions of KRS 186.535 and the sixteen dollar ($16) fee shall be subject to the provisions of KRS 186.535 and KRS 186.890. All fees paid for a duplicate shall be divided as follows:

(a) The Transportation Cabinet shall receive thirty-three percent (33%) that shall be used to comply with subsection (14) of this section; and

(b) The Administrative Office of the Courts shall receive sixty-seven percent (67%) that shall be used to comply with subsection (15) of this section.

(8) A person applying for an original or renewal nondriver's identification card shall pay the circuit clerk a fee of eight dollars ($8). If the person is under the age of twenty-one (21), the nondriver's identification card shall be stamped "Under 21" and shall be valid until that person attains the age of twenty-two (22). A person upon turning age twenty-one (21) may surrender the "Under 21" nondriver's identification card and be issued a regular nondriver's identification card under the provisions of this subsection and shall not be required to wait until the person's twenty-second birthday before being issued a regular nondriver's identification card. The eight dollar ($8) fee shall be divided as follows:

(a) The Transportation Cabinet shall receive fifty percent (50%) that shall be used to comply with subsection (14) of this section; and

(b) The Administrative Office of the Courts shall receive fifty percent (50%) that shall be used to comply with subsection (15) of this section.

(9) A person applying to reinstate an instruction permit or operator's license that has been suspended or revoked under KRS Chapter 186, 187, or 189A shall pay the Transportation Cabinet a fifteen dollar ($15) reinstatement application fee. The fee shall be paid by certified check or money order made payable to the State Treasurer, who shall divide and deposit the fifteen dollar ($15) fee as follows:

(a) Five dollars ($5) shall be deposited into a trust and agency account to the credit of the Transportation Cabinet to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers; and

(b) Ten dollars ($10) shall be deposited into a trust and agency account to the credit of the Administrative Office of the Courts to be used to comply with the provisions of subsection (15) of this section.

(10) Except as provided in subsection (11) of this section, upon receipt of verification from the Transportation Cabinet that a person is eligible to have his or her instruction permit or operator's license reinstated that has been suspended or revoked under KRS Chapter 186, 187, or 189A, the person shall pay the circuit clerk a thirty-five dollar ($35) reinstatement fee. The thirty-five dollar ($35) reinstatement fee shall be divided as follows:

(a) Five dollars ($5) shall be deposited into a trust and agency account to the credit of the Transportation Cabinet to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers;

(b) Fifteen dollars ($15) shall be deposited into a trust and agency account to the credit of the Transportation Cabinet to be used to comply with the provisions of subsection (14) of this section; and

(c) Fifteen dollars ($15) shall be deposited into a trust and agency account to the credit of the Administrative Office of the Courts to be used to comply with the provisions of subsection (15) of this section.

(11) The provisions of subsection (10) of this section shall not apply to:

(a) A person whose permit or license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the person's driving privileges are reinstated; or

(b) A student who has had his or her permit or license revoked pursuant to KRS 159.051.

(12) An applicant for an original or renewal motor vehicle operator's license, commercial driver's license, or motorcycle operator's license shall have the opportunity to make a donation of one dollar ($1) to promote an organ donor program. The one dollar ($1) donation shall be added to the regular fee for an original or renewal motor vehicle operator's license, commercial driver's license, or motorcycle operator's license. One (1) donation may be made per issuance or renewal of a license or any combination thereof. The fee shall be paid to the circuit clerk and shall be retained by the clerk to be used exclusively for the purpose of promoting an organ donor program. Organ donation shall be voluntary and may be refused by the applicant at the time of issuance or renewal of a license.

(13) The penalty assessed under Section 4 of this Act against any clerk who fails to report and remit the fees required to be collected under Section 4 of this Act, shall be paid into the road fund under subsection (14) of this section.

(14) All fees designated to be received by the Transportation Cabinet under this section shall be divided with one-half (1/2) of the fees being deposited into the road fund and one-half (1/2) being deposited into a special account within the road fund to be used for administrative costs incurred by the Division of Driver Licensing, training and salaries for employees of the Division of Driver Licensing, purchasing supplies and equipment for the Division of Driver Licensing, and maintaining the equipment associated with the issuance of secure and tamper-proof licenses and permits under this chapter. Fees designated to be received by the cabinet under this section shall be used to:

(a) Purchase and maintain equipment for circuit clerks associated with the issuance of secure and tamper-proof licenses and permits; and

(b) Implement programs to support a secure digitized licensing process.

(15) All fees designated to be received by the Administrative Office of the Courts under this section shall be deposited into a trust and agency account and shall be used to assist circuit clerks in hiring additional deputy clerks, providing salary adjustments for deputy clerks, providing training to deputy clerks, and any other expense related to the issuance of secure and tamper-proof operator's licenses and permits.

Section 2. KRS 186.440 is amended to read as follows:

An operator's license shall not be granted to:

(1) *Any person who is not a resident of Kentucky;*

(2) Any person under the age of sixteen (16);

(3)[~~(2)~~] Any person under the age of eighteen (18) who holds a valid Kentucky instruction permit issued pursuant to KRS 186.450, but who has not graduated from high school or who is not enrolled and successfully participating in school or who is not being schooled at home, except those persons who satisfy the District Court of appropriate venue pursuant to KRS 159.051(3) that revocation of their license would create an undue hardship. Persons under the age of eighteen (18) shall present proof of complying with the requirements of KRS 159.051;

(4)[~~(3)~~] Any person whose operator's license has been suspended, during the period of suspension;

(5)[~~(4)~~] Any person whose operator's license has been revoked, nor to any nonresident whose privilege of exemption under KRS 186.430 has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued;

(6)[~~(5)~~] Any applicant adjudged incompetent by judicial decree;

(7)[~~(6)~~] Any person who in the opinion of the State Police, after examination, is unable to exercise reasonable and ordinary control over a motor vehicle upon the highways;

(8)[~~(7)~~] Any person who is unable to understand highway warnings or direction signs in the English language;

(9)[~~(8)~~] Any person required by KRS 186.480 to take an examination who has not successfully passed the examination;

(10)[~~(9)~~] Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof;

(11)[~~(10)~~] Any person who has not filed a correct and complete application attested to in the presence of a person authorized to administer oaths; *or*

(12)[~~(11)~~] Any person who cannot meet the requirements set forth in KRS 186.411(1) or (3)[~~; or~~

~~(12) Any person whose operator's license has been suspended or revoked under the provisions of KRS Chapter 186, 187, or 189A until the person has forwarded to the cabinet a reinstatement fee of fifteen dollars ($15). The fee shall be paid by certified check or money order payable to the State Treasurer who shall deposit five dollars ($5) of the fee in a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers. Ten dollars ($10) of the fee shall be deposited by the State Treasurer in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees, providing salary adjustments for employees, providing training for employees, and purchasing additional equipment used in administering the issuance of driver's licenses. The provisions of this subsection shall not apply to any person whose~~

~~license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of the individuals are reinstated or to any student who has had his license revoked pursuant to KRS 159.051]~~.

Section 3. KRS 186.450 is amended to read as follows:

(1) A person who is at least sixteen (16) years of age may apply for an instruction permit to operate a motor vehicle. A person who possesses a valid motor vehicle operators' license or a person who is at least eighteen (18) years of age may apply for an instruction permit to operate a motorcycle. A holder of either a motor vehicle or motorcycle instruction permit may also operate a moped under that permit. A person applying for an instruction permit under this section shall make application in the office of the circuit clerk in the county where the person lives. A person applying for an instruction permit shall be required to comply with the following:

(a) If the person is under the age of eighteen (18), the instruction permit application shall be signed by the applicant's parent or legal guardian. If the person does not have a living parent or does not have a legal guardian, the instruction permit application shall be signed by a person willing to assume responsibility for the applicant pursuant to KRS 186.590; and

(b) All applicants for an instruction permit shall comply with the examinations required by KRS 186.480.

(2) If an applicant successfully passes the examinations required by KRS 186.480, the applicant shall be issued an instruction permit upon payment of ***the fee required by Section 1 of this Act***~~[a six dollar ($6) fee pursuant to KRS 186.531]~~.

(3) An instruction permit shall be valid for one (1) year and may be renewed. A person under the age of twenty-one (21) at the time of application for an instruction permit shall have the instruction permit a minimum of one hundred eighty (180) days before applying for an operator's license. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit shall have the instruction permit a minimum of thirty (30) days before applying for an operator's license.

(4) A person shall have the instruction permit in his possession at all times when operating a motor vehicle, motorcycle, or moped upon the highway. When operating a motor vehicle, a motor vehicle instruction permit holder shall be accompanied by a person with a valid operator's license who is at least twenty-one (21) years of age occupying the seat beside the operator at all times.

(5) A person with an instruction permit who is under the age of eighteen (18) shall not operate a motor vehicle, motorcycle, or moped between the hours of 12 midnight and 6 a.m. unless the person can demonstrate good cause for driving including, but not limited to, emergencies, involvement in school related activities, or involvement in work related activities.

(6) A person under the age of eighteen (18) who accumulates more than six (6) points against his driving privilege may have the driving privilege suspended pursuant to KRS Chapter 186 or probated by the court.

~~[(7) An applicant for relicensing after revocation shall pay the clerk a fee of twenty-five dollars ($25). The twenty-five dollar ($25) fee shall not apply to any person whose license was suspended for failure to meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated and persons reinstated pursuant to KRS 159.051.]~~

Section 4. KRS 186.490 is amended to read as follows:

The circuit clerk of each county shall:

(1) Comply with all rules and regulations issued by the cabinet under KRS 186.400 relating to his duties;

(2) Act for the cabinet for the purpose of issuing temporary operator's licenses and instruction permits;

(3) Administer the oath required by KRS 186.412 to the applicant without fee;

(4) Report and remit monthly to the state all moneys collected during the preceding month and remit a copy of all applications taken by him during the same period to the Transportation Cabinet. Upon failure of any clerk to report and remit therefor more than seven (7) days after the due date, he shall pay, in addition to the amount due, a penalty of ten percent (10%) of the amount due. Penalties collected under this section shall be paid into the ***road fund under Section 1 of this Act***~~[State Treasury as a part of the revenue collected under KRS 186.531]~~;

(5) Keep adequate records of all moneys collected and remitted to the state; and

(6) Keep in his office at all times available to the cabinet a record of all temporary licenses issued in his county, all denials, cancellations, suspensions, revocations or withdrawals of operator's licenses or motorcycle operator's licenses within his county and, to the extent that he is advised, of all other withdrawals of the privilege to operate a motor vehicle on the highways.

Section 5. KRS 186.520 is amended to read as follows:

(1) A person whose license has been legitimately lost or destroyed, shall apply to the circuit clerk in the county in which the most recent permanent license was obtained in order to make application for a duplicate license. He shall furnish satisfactory proof by affidavit substantiating the loss or destruction when applying for a duplicate license.

(2) A person whose chauffeur's license has been legitimately lost or destroyed shall apply to the circuit clerk in the county in which the most recent permanent license was obtained in order to make application for a duplicate license. He shall furnish

satisfactory proof by affidavit substantiating the loss or destruction when applying for a duplicate license. The fee for a duplicate license shall be according to the schedule set forth in *Section 1 of this Act*~~[KRS 186.531, and fifty cents ($0.50) shall be submitted to the Transportation Cabinet in compliance with KRS 186.400 through 186.490]~~.

Section 6. KRS 186.535 is amended to read as follows:

(1) From the fee for each four (4) year original or renewal operator's license, fifty cents ($0.50) shall be credited to a special account within the road fund, and shall be used exclusively by the Transportation Cabinet for the purpose of expanding the state driver education program, and fifty cents ($0.50) shall be paid to the fiscal court of the county where the driver's license is issued to be used by the fiscal court for county road purposes.

(2) From the fee for each annual registration of a motorcycle and motorcycle sidecar attachments, pursuant to KRS 186.050, four dollars ($4) shall be credited to a special account within the road fund and shall be used exclusively for the purpose of the motorcycle safety education program fund pursuant to KRS *186.890*~~[186.050]~~.

Section 7. The following KRS sections are repealed:

186.413 Commission to determine color photo process to be used.

186.5315 Posting of notice about 1994 increases in fees of circuit clerks.

The Committee Substitute to **HB 867** is as follows:

HB 867, AN ACT relating to protecting the public safety through improved methods of issuing secure and tamper-proof operator's licenses and permits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 186.531 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A person twenty-one (21) years of age or older applying for an original, renewal, or transfer operator's license shall pay the circuit clerk a fee of twelve dollars ($12). The twelve dollar ($12) fee shall be subject to the provisions of KRS 186.535 and shall be divided as follows:

(a) The Transportation Cabinet shall receive seventy-eight percent (78%) that shall be used to comply with subsection (14) of this section; and

(b) The Administrative Office of the Courts shall receive twenty-two percent (22%) that shall be used to comply with subsection (15) of this section.

(2) A person under the age of twenty-one (21) applying for an operator's license shall pay the circuit clerk a fee of twelve dollars ($12) that shall be divided as fees are divided under subsection (1) of this section. An "Under 21" license shall be valid until the date the person attains the age of twenty-two (22). Upon turning age twenty-one (21) a person may surrender the "Under 21" license and be issued a regular operator's license under the provisions of subsection (1) of this section, or be issued a commercial driver's license under the provisions of KRS Chapter 281A, and the person shall not be required to wait until his or her twenty-second birthday before being issued a regular operator's license or commercial driver's license.

(3) A person applying for a commercial driver's instruction permit or operator's license shall pay the fee required by KRS Chapter 281A. Fees received for a commercial driver's instruction permit shall be divided as fees are divided under subsection (6) of this section. Fees received for a commercial driver's operator's license shall be divided as fees are divided under subsection (1) of this section.

(4) A person applying for an original, renewal, or transfer motorcycle operator's license shall pay the circuit clerk a fee of sixteen dollars ($16). The sixteen dollar ($16) fee shall be subject to the provisions of KRS 186.535 and KRS 186.890 and shall be divided as follows:

(a) The Transportation Cabinet shall receive seventy-eight percent (78%) that shall be used to comply with subsection (14) of this section; and

(b) The Administrative Office of the Courts shall receive twenty-two percent (22%) that shall be used to comply with subsection (15) of this section.

(5) A person applying for an original or renewal combination motor vehicle-motorcycle operator's license shall pay the circuit clerk a fee of twenty-two dollars ($22). The twenty-two dollar ($22) fee shall be subject to the provisions of KRS 186.535 and KRS 186.890 and shall be divided as follows:

(a) The Transportation Cabinet shall receive eighty-three percent (83%) that shall be used to comply with subsection (14) of this section; and

(b) The Administrative Office of the Courts shall receive seventeen percent (17%) that shall be used to comply with subsection (15) of this section.

(6) A person applying for an instruction permit to operate a motor vehicle shall pay a twelve dollar ($12) fee. A person applying for an instruction permit to operate a motorcycle shall pay a sixteen dollar ($16) fee. The twelve dollar ($12) fee shall be subject to the provisions of KRS 186.535 and the sixteen dollar ($16) fee shall be subject to the provisions

of KRS 186.535 and KRS 186.890. All fees paid for an instruction permit shall be divided as follows:

(a) The Transportation Cabinet shall receive thirty-three percent (33%) that shall be used to comply with subsection (14) of this section; and

(b) The Administrative Office of the Courts shall receive sixty-seven percent (67%) that shall be used to comply with subsection (15) of this section.

(7) A person applying for a duplicate instruction permit or duplicate operator's license to operate a motor vehicle shall pay the circuit clerk a twelve dollar ($12) fee. A person applying for a duplicate instruction permit or duplicate operator's license to operate a motorcycle shall pay a sixteen dollar ($16) fee. The twelve dollar ($12) fee shall be subject to the provisions of KRS 186.535 and the sixteen dollar ($16) fee shall be subject to the provisions of KRS 186.535 and KRS 186.890. All fees paid for a duplicate shall be divided as follows:

(a) The Transportation Cabinet shall receive thirty-three percent (33%) that shall be used to comply with subsection (14) of this section; and

(b) The Administrative Office of the Courts shall receive sixty-seven percent (67%) that shall be used to comply with subsection (15) of this section.

(8) A person applying for an original or renewal nondriver's identification card shall pay the circuit clerk a fee of eight dollars ($8). If the person is under the age of twenty-one (21), the nondriver's identification card shall be stamped "Under 21" and shall be valid until that person attains the age of twenty-two (22). A person upon turning age twenty-one (21) may surrender the "Under 21" nondriver's identification card and be issued a regular nondriver's identification card under the provisions of this subsection and shall not be required to wait until the person's twenty-second birthday before being issued a regular nondriver's identification card. The eight dollar ($8) fee shall be divided as follows:

(a) The Transportation Cabinet shall receive fifty percent (50%) that shall be used to comply with subsection (14) of this section; and

(b) The Administrative Office of the Courts shall receive fifty percent (50%) that shall be used to comply with subsection (15) of this section.

(9) A person applying to reinstate an instruction permit or operator's license that has been suspended or revoked under KRS Chapter 186, 187, or 189A shall pay the Transportation Cabinet a fifteen dollar ($15) reinstatement application fee. The fee shall be paid by certified check or money order made payable to the State Treasurer, who shall divide and deposit the fifteen dollar ($15) fee as follows:

(a) Five dollars ($5) shall be deposited into a trust and agency account to the credit of the Transportation Cabinet to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers; and

(b) Ten dollars ($10) shall be deposited into a trust and agency account to the credit of the Administrative Office of the Courts to be used to comply with the provisions of subsection (15) of this section.

(10) Except as provided in subsection (11) of this section, upon receipt of verification from the Transportation Cabinet that a person is eligible to have his or her instruction permit or operator's license reinstated that has been suspended or revoked under KRS Chapter 186, 187, or 189A, the person shall pay the circuit clerk a fifty dollar ($50) reinstatement fee. The fifty dollar ($50) reinstatement fee shall be divided as follows:

(a) Five dollars ($5) shall be deposited into a trust and agency account to the credit of the Transportation Cabinet to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers;

(b) Thirty dollars ($30) shall be deposited into a trust and agency account to the credit of the Transportation Cabinet to be used to comply with the provisions of subsection (14) of this section; and

(c) Fifteen dollars ($15) shall be deposited into a trust and agency account to the credit of the Administrative Office of the Courts to be used to comply with the provisions of subsection (15) of this section.

(11) The provisions of subsection (10) of this section shall not apply to:

(a) A person whose permit or license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the person's driving privileges are reinstated; or

(b) A student who has had his or her permit or license revoked pursuant to KRS 159.051.

(12) An applicant for an original or renewal motor vehicle operator's license, commercial driver's license, or motorcycle operator's license shall have the opportunity to make a donation of one dollar ($1) to promote an organ donor program. The one dollar ($1) donation shall be added to the regular fee for an original or renewal motor vehicle operator's license, commercial driver's license, or motorcycle operator's license. One (1) donation may be made per issuance or renewal of a license or any combination thereof. The fee shall be paid to the circuit clerk and shall be retained by the clerk to be used exclusively for the purpose of promoting an organ donor program. Organ donation shall be voluntary and may be refused by the applicant at the time of issuance or renewal of a license.

(13) The penalty assessed under Section 4 of this Act against any clerk who fails to report and remit the fees required to be

collected under Section 4 of this Act, shall be paid into the road fund under subsection (14) of this section.

(14) ***All fees designated to be received by the Transportation Cabinet under this section shall be divided with one-half (1/2) of the fees being deposited into the road fund and one-half (1/2) being deposited into a special account within the road fund to be used for administrative costs incurred by the Division of Driver Licensing, training and salaries for employees of the Division of Driver Licensing, purchasing supplies and equipment for the Division of Driver Licensing, and maintaining the equipment associated with the issuance of secure and tamper-proof licenses and permits under this chapter. Fees designated to be received by the cabinet under this section shall be used to:***

(a) ***Purchase and maintain equipment for circuit clerks associated with the issuance of secure and tamper-proof licenses and permits; and***

(b) ***Implement programs to support a secure digitized licensing process.***

(15) ***All fees designated to be received by the Administrative Office of the Courts under this section shall be deposited into a trust and agency account and shall be used to assist circuit clerks in hiring additional deputy clerks, providing salary adjustments for deputy clerks, providing training to deputy clerks, and any other expense related to the issuance of operator's licenses and permits.***

Section 2. KRS 186.440 is amended to read as follows:

An operator's license shall not be granted to:

(1) ***Any person who is not a resident of Kentucky;***

(2) Any person under the age of sixteen (16);

(3)[~~(2)~~] Any person under the age of eighteen (18) who holds a valid Kentucky instruction permit issued pursuant to KRS 186.450, but who has not graduated from high school or who is not enrolled and successfully participating in school or who is not being schooled at home, except those persons who satisfy the District Court of appropriate venue pursuant to KRS 159.051(3) that revocation of their license would create an undue hardship. Persons under the age of eighteen (18) shall present proof of complying with the requirements of KRS 159.051;

(4)[~~(3)~~] Any person whose operator's license has been suspended, during the period of suspension;

(5)[~~(4)~~] Any person whose operator's license has been revoked, nor to any nonresident whose privilege of exemption under KRS 186.430 has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued;

(6)[~~(5)~~] Any applicant adjudged incompetent by judicial decree;

(7)[~~(6)~~] Any person who in the opinion of the State Police, after examination, is unable to exercise reasonable and ordinary control over a motor vehicle upon the highways;

(8)[~~(7)~~] Any person who is unable to understand highway warnings or direction signs in the English language;

(9)[~~(8)~~] Any person required by KRS 186.480 to take an examination who has not successfully passed the examination;

(10)[~~(9)~~] Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof;

(11)[~~(10)~~] Any person who has not filed a correct and complete application attested to in the presence of a person authorized to administer oaths; ***or***

(12)[~~(11)~~] Any person who cannot meet the requirements set forth in KRS 186.411(1) or (3)[~~; or~~

~~(12) Any person whose operator's license has been suspended or revoked under the provisions of KRS Chapter 186, 187, or 189A until the person has forwarded to the cabinet a reinstatement fee of fifteen dollars ($15). The fee shall be paid by certified check or money order payable to the State Treasurer who shall deposit five dollars ($5) of the fee in a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers. Ten dollars ($10) of the fee shall be deposited by the State Treasurer in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees, providing salary adjustments for employees, providing training for employees, and purchasing additional equipment used in administering the issuance of driver's licenses. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of the individuals are reinstated or to any student who has had his license revoked pursuant to KRS 159.051~~].

Section 3. KRS 186.450 is amended to read as follows:

(1) A person who is at least sixteen (16) years of age may apply for an instruction permit to operate a motor vehicle. A person who possesses a valid motor vehicle operators' license or a person who is at least eighteen (18) years of age may apply for an instruction permit to operate a motorcycle. A holder of either a motor vehicle or motorcycle instruction permit may also operate a moped under that permit. A person applying for an instruction permit under this section shall make application in the office of the circuit clerk in the county where the person lives. A person applying for an instruction permit shall be required to comply with the following:

(a) If the person is under the age of eighteen (18), the instruction permit application shall be signed by the applicant's parent or legal guardian. If the person does not have a living parent or does not have a legal guardian, the instruction permit application shall be signed by a person willing to assume responsibility for the applicant pursuant to KRS 186.590; and

(b) All applicants for an instruction permit shall comply with the examinations required by KRS 186.480.

(2) If an applicant successfully passes the examinations required by KRS 186.480, the applicant shall be issued an instruction permit upon payment of ***the fee required by Section 1 of this Act***[~~a six dollar ($6) fee pursuant to KRS 186.531~~].

(3) An instruction permit shall be valid for one (1) year and may be renewed. A person under the age of twenty-one (21) at the time of application for an instruction permit shall have the instruction permit a minimum of one hundred eighty (180) days before applying for an operator's license. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit shall have the instruction permit a minimum of thirty (30) days before applying for an operator's license.

(4) A person shall have the instruction permit in his possession at all times when operating a motor vehicle, motorcycle, or moped upon the highway. When operating a motor vehicle, a motor vehicle instruction permit holder shall be accompanied by a person with a valid operator's license who is at least twenty-one (21) years of age occupying the seat beside the operator at all times.

(5) A person with an instruction permit who is under the age of eighteen (18) shall not operate a motor vehicle, motorcycle, or moped between the hours of 12 midnight and 6 a.m. unless the person can demonstrate good cause for driving including, but not limited to, emergencies, involvement in school related activities, or involvement in work related activities.

(6) A person under the age of eighteen (18) who accumulates more than six (6) points against his driving privilege may have the driving privilege suspended pursuant to KRS Chapter 186 or probated by the court.

[~~(7) An applicant for relicensing after revocation shall pay the clerk a fee of twenty-five dollars ($25). The twenty-five dollar ($25) fee shall not apply to any person whose license was suspended for failure to meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated and persons reinstated pursuant to KRS 159.051.~~]

Section 4. KRS 186.490 is amended to read as follows:

The circuit clerk of each county shall:

(1) Comply with all rules and regulations issued by the cabinet under KRS 186.400 relating to his duties;

(2) Act for the cabinet for the purpose of issuing temporary operator's licenses and instruction permits;

(3) Administer the oath required by KRS 186.412 to the applicant without fee;

(4) Report and remit monthly to the state all moneys collected during the preceding month and remit a copy of all applications taken by him during the same period to the Transportation Cabinet. Upon failure of any clerk to report and remit therefor more than seven (7) days after the due date, he shall pay, in addition to the amount due, a penalty of ten percent (10%) of the amount due. Penalties collected under this section shall be paid into the ***road fund under Section 1 of this Act***[~~State Treasury as a part of the revenue collected under KRS 186.531~~];

(5) Keep adequate records of all moneys collected and remitted to the state; and

(6) Keep in his office at all times available to the cabinet a record of all temporary licenses issued in his county, all denials, cancellations, suspensions, revocations or withdrawals of operator's licenses or motorcycle operator's licenses within his county and, to the extent that he is advised, of all other withdrawals of the privilege to operate a motor vehicle on the highways.

Section 5. KRS 186.520 is amended to read as follows:

(1) A person whose license has been legitimately lost or destroyed, shall apply to the circuit clerk in the county in which the most recent permanent license was obtained in order to make application for a duplicate license. He shall furnish satisfactory proof by affidavit substantiating the loss or destruction when applying for a duplicate license.

(2) A person whose chauffeur's license has been legitimately lost or destroyed shall apply to the circuit clerk in the county in which the most recent permanent license was obtained in order to make application for a duplicate license. He shall furnish satisfactory proof by affidavit substantiating the loss or destruction when applying for a duplicate license. The fee for a duplicate license shall be according to the schedule set forth in ***Section 1 of this Act***[~~KRS 186.531, and fifty cents ($0.50) shall be submitted to the Transportation Cabinet in compliance with KRS 186.400 through 186.490~~].

Section 6. KRS 186.535 is amended to read as follows:

(1) From the fee for each four (4) year original or renewal operator's license, fifty cents ($0.50) shall be credited to a special account within the road fund, and shall be used exclusively by the Transportation Cabinet for the purpose of expanding the state driver education program, and fifty cents ($0.50) shall be paid to the fiscal court of the county where the driver's license is issued to be used by the fiscal court for county road purposes.

(2) From the fee for each annual registration of a motorcycle and motorcycle sidecar attachments, pursuant to KRS 186.050, four dollars ($4) shall be credited to a special account within the road fund and shall be used exclusively for the purpose of the motorcycle safety education program fund pursuant to KRS ***186.890***~~[186.050]~~.

Section 7. The following KRS sections are repealed:

186.413 Commission to determine color photo process to be used.

186.5315 Posting of notice about 1994 increases in fees of circuit clerks.

HCR 161, A CONCURRENT RESOLUTION establishing the Off-road Motorcycle and All-terrain Vehicle Task Force.

WHEREAS, the popularity of off-road motorcycles and all-terrain vehicles used for recreation has exploded in recent years; and

WHEREAS, recent statutory changes and publicized accidents have brought all-terrain vehicles into the public spotlight; and

WHEREAS, concerns exist over the safe operation of off-road motorcycles and all-terrain vehicles especially by minors and on public highways; and

WHEREAS, increasing the use of public and private lands by off-road motorcycles and all-terrain vehicles may have beneficial safety and economic effects; and

WHEREAS, the issues surrounding these recreational activities have not yet been studied;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Off-road Motorcycle and All-terrain Vehicle Task Force is created to study policies and issues surrounding the use of private and public lands by all-terrain vehicles and off-road motorcycles. The task force shall examine state policies and the effect this issue has on highway safety and Kentucky tourism.

Section 2. The task force shall consist of eleven (11) members as follows:

(1) Two (2) members of the Kentucky Senate, appointed by the President of the Senate;

(2) Two (2) members of the Kentucky House of Representatives, appointed by the Speaker of the House;

(3) The Secretary of the Transportation Cabinet, or the secretary's designee;

(4) The Secretary of the Tourism Cabinet, or the secretary's designee;

(5) The Commissioner of the Department of Fish and Wildlife Resources, or the commissioner's designee;

(6) The Commissioner of the Kentucky State Police, or the commissioner's designee;

(7) The Secretary of the Natural Resources and Environmental Protection Cabinet, or the secretary's designee; and

(6) Two (2) members of the Kentucky Motorcycle Association, appointed by the Legislative Research Commission.

Section 3. A majority of members shall serve as a quorum. The President of the Senate shall appoint one (1) of the Senate members to serve as co-chair of the task force and the Speaker of the House shall appoint one (1) of the House members to serve as co-chair of the task force. The task force shall be staffed by Legislative Research Commission staff.

Section 4. The task force shall report its findings and legislative recommendations to the Legislative Research Commission no later than September 30, 2003, for action during the 2004 Regular Session of the General Assembly.

Section 5. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

HJR 181, A JOINT RESOLUTION memorializing Absalom Redmon Shacklett.

WHEREAS, Absalom Redmon Shacklett played a prominent role in the history of McLean County; and

WHEREAS, Absalom Redmon Shacklett fought bravely during the Civil War; and

WHEREAS, Absalom Redmon Shacklett served as Postmaster for the city of Island; and

WHEREAS, Absalom Redmon Shacklett also served the people of McLean County as a state legislator;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name the bridge on Kentucky Route 85 over the Green River east of Island in McLean County the "Absalom Redmon Shacklett Memorial Bridge."

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs at each end of the bridge specified in Section 1 of this Act that read "Absalom Redmon Shacklett Memorial Bridge."

HJR 212, A JOINT RESOLUTION honoring the achievements of Ralph Smith of Livingston County.

WHEREAS, Ralph Smith was a dedicated public servant who spent the better part of his life in service to the people of Livingston County; and

WHEREAS, Ralph Smith served for over 40 years cumulatively in the posts of Livingston County Judge and Livingston County Sheriff; and

WHEREAS, now that Ralph Smith is retired from public service, it is more apparent than ever what his contributions have meant to the people of Livingston County; and

WHEREAS, Ralph Smith should be commended and honored by the General Assembly for a life spent in service;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name the bridge on United States Route 60 over the Cumberland River in Livingston County the "Ralph Smith Bridge."

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs at each end of the bridge specified in Section 1 of this Act that read "Ralph Smith Bridge."

SB 36, AN ACT relating to organ donation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.412 is amended to read as follows:

(1) A person under the age of twenty-one (21) at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least thirty (30) days. The person shall apply for an operator's license in the office of the circuit clerk of the county where he lives. The application form shall require the applicant's full legal name and signature, date of birth, Social Security number, sex, present resident address, other information necessary to permit the application to also serve as an application for voter registration, and brief physical description of the applicant. If the person is not a United States citizen, the application form shall be accompanied by a photographic copy of the person's employment authorization card, visa card to enter the United States, or permanent residency card issued by the United States Department of Immigration Services and, if applicable, a photographic copy of the person's international driving permit. All applications shall state:

(a) If the applicant has previously been licensed as an operator and by what nation or state; and

(b) Other information the cabinet may require by administrative regulation promulgated pursuant to KRS Chapter 13A.

(2) The Transportation Cabinet shall issue a plastic laminated operator's license bearing a color photograph of the applicant. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the application simultaneously, using the process determined under provisions of KRS 186.413. When taking the photograph, the applicant shall be prohibited from wearing sunglasses or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses or other attire prohibited by this section as directed by the clerk shall be prohibited from receiving an operator's license. The plastic laminated operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. The license shall also designate by color coding and use the phrase "under 21" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).

(3) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(4) The clerk may, after determining that the applicant has fully complied with the law governing applications, issue a temporary operator's license to be valid for not more than ninety (90) days. The temporary license shall be valid in lieu of the permanent license during the certification period and shall be destroyed upon receipt of the permanent operator's license.

(5) The circuit clerk shall issue a color photo nondriver's identification card to any person who resides in the county who applies in person in the office of the circuit clerk. A nondriver's identification card shall be subject to the provisions of this section. An application for a nondriver's identification card shall be accompanied by a signed Social Security card and a

birth certificate, or other proof of the applicant's date of birth provided under subsection (1) of this section. If the person is not a United States citizen, an application for a nondriver's identification card shall be accompanied by a photographic copy of the person's employment authorization card, visa card to enter the United States, or permanent residency card issued by the United States Department of Immigration Services. The application shall require the applicant to provide his or her full legal name and most current resident address that may include, but is not limited to, a mailing address, post office box, or an address provided on a voter registration card. If an applicant for a nondriver's identification card is under the age of twenty-one (21), the applicant's most current resident address shall be required unless a current resident address is not available, in which case a mailing address, post office box, or an address provided on a voter registration card may be used. Every applicant for a nondriver's identification card shall make an oath to the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the legal possessor of the address provided on the application form, the applicant shall swear that he has permission from the legal possessor to use the address for purposes of obtaining the nondriver's identification card. The nondriver's identification card shall designate by color coding and by use of the phrase "under 21" if the applicant is under the age of twenty-one (21).

(6) Licensed drivers temporarily out-of-county may be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."

(7) If a citizen of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, the citizen may renew a Class D operator's license issued under this section by mail. If the citizen was issued an "under 21" operator's license, upon the date of his or her twenty-first birthday, the "under 21" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21".

(8) A citizen of the Commonwealth renewing an operator's license by mail under subsection (7) of this section may have a personal designee apply to the circuit clerk on behalf of the citizen to renew the citizen's operator's license. An operator's license being renewed by mail under subsection (7) of this section shall be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature".

(9) If a citizen of the Commonwealth has been serving in the United States military and has allowed his operator's license to expire, he shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his license without having to take a written test or road test. A citizen who does not renew his license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired. If a citizen of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the person is unable to renew the license on the date of his twenty-first birthday, the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.

(10) The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:

(a) Blood type;

(b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and

(c) A statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.195.

(11) If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, he may apply for and shall receive, for a fee of one dollar ($1) paid to the circuit clerk, a medical insignia decal that may be affixed to the lower left side of the front windshield of a motor vehicle.

(12) An operator's license pursuant to this section shall be designated a Class D license.

(13) A person shall not have more than one (1) license.

(14) Upon marriage, a woman applying for an operator's license or a color photo nondriver's identification card shall provide the circuit clerk with her marriage license and complete an affidavit form provided by the circuit court clerk. She shall have the following choices in regard to her full legal name as required in subsections (1) and (5) of this section:

(a) Use her husband's last name;

(b) Retain her maiden name;

(c) Use her maiden name hyphenated with her husband's last name;

(d) Use her maiden name as a middle name and her husband's last name as her last name; or

(e) In the case of a previous marriage, retain that husband's last name.

(15) Upon issuing an operator's license or nondriver's identification card, the clerk shall draw the recipient's attention to the location on the license relating to anatomical gifts under subsection (10)(c) of this section and offer to allow personnel in the clerk's office to serve as the witnesses to the recipient's certification of willingness to make an anatomical gift if the recipient is the person to whom the license is issued.

Section 2. KRS 186.531 is amended to read as follows:

(1) The cost of operators' licenses and permits shall be as follows:
  (a) The fee for a four (4) year original or renewal motor vehicle license shall be eight dollars ($8);
  (b) The fee for a four (4) year original or renewal motorcycle operator's license shall be twelve dollars ($12) and a combination motor vehicle-motorcycle operator's license shall be eighteen dollars ($18);
  (c) The fee for an instruction permit for a motor vehicle shall be two dollars ($2) plus four dollars ($4) for preparing and acknowledging the application;
  (d) The fee for an instruction permit for a motorcycle shall be five dollars ($5) plus one dollar ($1) for preparing and acknowledging the application;
  (e) The fee for a duplicate license shall be six dollars ($6);
  (f) The fee for an identification card shall be four dollars ($4). The fee for a duplicate identification card shall be two dollars ($2); and
  (g) Any applicant under the age of twenty-one (21) who meets the requirements for the issuance of a valid driver's license shall be issued a license valid until the date the applicant attains the age of twenty-one (21). The fee for the license shall be two dollars ($2) per year for the requisite number of years as set forth herein. The applicant shall have thirty (30) days after his twenty-first birthday in which to renew his driver's license.

(2) Except as provided in subsection (3) of this section, the circuit clerk shall deposit in the State Treasury to the credit of the general fund except as provided in paragraph (a), paragraph (f), and paragraph (g) of this subsection fees pertaining to applications and license fees in the following manner:
  (a) Twenty-two per cent (22%) of the cost for the issuance of any original and renewal license shall be deposited in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees and providing salary adjustments for employees;
  (b) One dollar ($1) for issuance of any instruction permit;
  (c) One dollar ($1) for preparing and acknowledging an application for an instruction permit;
  (d) One dollar and twenty-five cents ($1.25) for preparing and acknowledging an application for a duplicate;
  (e) One dollar and twenty-five cents ($1.25) for each identification card;
  (f) For each original or renewal license one dollar ($1) shall be credited to a special account within the state road fund and shall be used by the Transportation Cabinet exclusively for the purpose of issuing a photo license. For each original or renewal motorcycle operator's license and each motorcycle instruction permit, four dollars ($4) shall be credited to a special account within the state road fund and shall be used exclusively for the purpose of the motorcycle safety education program fund pursuant to KRS 186.890;
  (g) An applicant for an original or renewal motor vehicle operator's license, commercial driver's license,[~~ or~~] motorcycle operator's license***, or nondriver's identification card*** shall ***be requested by the clerk***[~~have the opportunity~~] to make a donation of one dollar ($1) to promote an organ donor program. The one dollar ($1) donation shall be added to the regular fee for an original or renewal motor vehicle operator's license, commercial driver's license,[~~ or~~] motorcycle operator's license***, or nondriver's identification card***. One (1) donation may be made per issuance or renewal of a license or any combination thereof. The fee shall be paid to the circuit clerk and shall be retained by the clerk to be used exclusively for the purpose of promoting an organ donor program. Organ donation shall be voluntary and may be refused by the applicant at the time of issuance or renewal of a license; and
  (h) Three dollars ($3) for a combination motor vehicle-motorcycle operator's license.

(3) The following fees shall be deposited in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees, providing salary adjustments for employees, providing training for employees, and purchasing additional equipment used in administering the issuance of driver's licenses:
  (a) One dollar ($1) for issuing of an instruction permit;
  (b) Three dollars ($3) for preparing and acknowledging an application for an instruction permit;
  (c) Four dollars ($4) for preparing and acknowledging an application for a duplicate license;
  (d) Ten dollars ($10) for preparing and acknowledging an application for a reinstatement fee; and
  (e) These fees shall be in addition to other funds provided to the circuit clerk through the regular appropriation made by the General Assembly to the Administrative Office of the Courts.

(4) The remainder of all fees, and other moneys collected by the circuit clerk shall be forwarded to the state.

The Committee on Local Government reported **HB 779**, **HB 838**, with Committee Substitute attached thereto, **HB 839**, with Committee Substitute and Committee Amendment attached thereto, **HB 852**, **HB 854**, with Committee Amendment attached thereto, **SB 66**, with Committee Substitute attached thereto, **SB 101**, and **SB 197**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 779, AN ACT relating to the financing of county law libraries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 172.180 is amended to read as follows:

Any county may adopt the following method of financing the cost of operation and maintenance of the county law library, in lieu of the method set out in KRS 172.130 or 172.170:

(1) Upon petition of three-fourths (3/4) of the duly licensed and practicing attorneys resident in the county addressed to the Circuit Judge of the county, to the effect that they, as officers of the various courts of the county, recognize the need of a more adequate county law library, there being attached to ***the***[~~said~~] petition an attested copy of a resolution of the fiscal court of the county ***endorsing***[~~indorsing~~] the adoption of this optional method of financing the cost of operation and maintenance of the county law library, the Circuit Judge shall enter an order noting that ***the***[~~said~~] optional plan for the financing of the cost of operation and maintenance of the county law library has been adopted.

(2) The order shall set forth the name of each duly licensed and practicing attorney signing ***the***[~~said~~] petition, and the order book and page number containing the resolution of the fiscal court.

(3) The order shall direct the following:

  (a) That upon receipt of the order by the clerks of ***the Circuit and District***[~~said~~] courts there shall be taxed as costs in all criminal actions, except examining trials and felony trials, thereafter instituted in ***a***[~~said~~] court the following fee, which shall be designated as county law library fee, in District Court, a sum not to exceed ***one dollar and*** fifty cents ***($1.50)***[~~($0.50)~~]; in Circuit and District Courts, on all civil actions a sum not to exceed ***three dollars ($3.00)***[~~one dollar ($1) excepting, however, in counties containing cities of the first class and counties containing cities of the second class, where the county law library fee, in District Court, shall be a sum not to exceed one dollar and fifty cents ($1.50); in Circuit and District Courts, on all civil actions, a sum not to exceed three dollars ($3)~~]; and

  (b) That the circuit clerk shall at the end of each month pay all sums collected as county law library fees during the preceding month, to the trustees of the county law library, and the clerk shall make a full report with ***the***[~~said~~] payment, and receive a receipt for all payments.

HB 838, AN ACT relating to local taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 17, 18, 19, and 20 of this Act and KRS 92.281 unless the context requires otherwise:

(1) "Business entity" means each separate corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;

(2) "Compensation" means wages, salaries, commissions, any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows:

  (a) Include any amounts contributed to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including but not limited to salary reduction arrangements under Section 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and

  (b) Include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including but not limited to Sections 125 and 132 of the Internal Revenue Code;

(3) "Fiscal year" means fiscal year as defined in Section 7701(a)(24) of the Internal Revenue Code;

(4) "Employee" means employee as defined in Section 3401(c) of the Internal Revenue Code;

(5) "Employer" means employer as defined in Section 3401(d) of the Internal Revenue Code;

(6) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2001, that would otherwise terminate;

(7) "Net profit" in case of a business entity means gross income as defined in Section 61 of the Internal Revenue Code minus all the deductions from gross income allowed by Chapter 1 of the Internal Revenue Code, and adjusted as follows:

  (a) Include any amount claimed as a deduction for state tax or local tax which is computed, in whole or in part, by

reference to gross or net income and which is paid or accrued to any state of the United States, local taxing authority in a state, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision thereof;

(b) Include any amount claimed as a deduction that directly or indirectly is allocable to income which is either exempt from taxation or otherwise not taxed;

(c) Include any amount claimed as a net operating loss carryback or carryforward allowed under Section 172 of the Internal Revenue Code;

(d) Include any amount of income and expenses passed through separately as required by the Internal Revenue Code to an owner of a business entity that is a pass-through entity for federal tax purposes;

(e) Exclude any amount of income that is exempt from state taxation by the Kentucky Constitution, or the Constitution and statutory laws of the United States;

(8) "Person" means person as defined in Section 7701(b)(2) of the Internal Revenue Code;

(9) "Tax district" means a city of the first to fifth class, county, urban-county, charter county, or consolidated local government;

(10) "Taxable net profit" in case of a business entity having payroll only in one tax district means net profit as defined in subsection (7) of this section;

(11) "Taxable net profit" in case of a business entity having payroll both within and without a tax district means net profit as defined in subsection (7) of this section, and as apportioned under Section 2 of this Act; and

(12) "Taxable year" means the calendar year or fiscal year ending during the calendar year, upon the basis of which net income is computed.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided for in subsection (2) of this section, net profit shall be apportioned to the tax district by multiplying the net profit by a fraction, the numerator of which is the payroll factor plus the sales factor, and the denominator of which is two (2).

(a) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in the tax district during the tax period by the business entity for compensation, and the denominator of which is the total compensation paid or payable by the business entity everywhere during the tax period. Compensation is paid or payable in the tax district based on the time the individual's service is performed within the tax district.

(b) 1. The sales factor is a fraction, the numerator of which is the total sales of the business entity in the tax district during the tax period, and the denominator of which is the total sales of the business entity everywhere during the tax period.

2. Sales of tangible personal property are in the tax district if:

a. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within the tax district regardless of the f.o.b. point or other conditions of the sale; or

b. The property is shipped from an office, store, warehouse, factory, or other place of storage in the tax district and the purchaser is the United States government.

3. Sales, other than sales of tangible personal property, are apportioned to the tax district based upon a fraction, the numerator of which is the time spent in performing such income-producing activity within the tax district and the denominator of which is the total time spent performing that income-producing activity.

(2) If the apportionment provisions of this section do not fairly represent the extent of the business entity's activity in the tax district, the business entity may petition for or the tax district may require, in respect to all or any part of the business entity's business activity, if reasonable:

(a) Separate accounting;

(b) The exclusion of any one (1) or more of the factors;

(c) The inclusion of one (1) or more additional factors which will fairly represent the business entity's business activity in the tax district; or

(d) The employment of any other method to effectuate an equitable allocation and apportionment of net profit.

SECTION 3. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) For all taxable years beginning on or after January 1, 2003, every business entity, other than a sole proprietorship, subject to taxation under KRS 92.281 or Section 18, 19, or 20 of this Act, shall make quarterly estimated tax payments on or before the fifteenth day of the fourth, sixth, ninth, and twelfth month of each taxable year if the tax liability for the taxable year exceeds five thousand dollars ($5,000).

(2) For all taxable years beginning on or after January 1, 2003, every business entity that is a sole proprietorship, subject to taxation under KRS 92.281 or Section 18, 19, or 20 of this Act, shall make quarterly estimated tax payments on or

before the fifteenth day of the fourth, sixth, and ninth month of each taxable year and on the fifteenth day of the month after the close of the taxable year if the tax liability for the taxable year exceeds five thousand dollars ($5,000).

(3) The quarterly estimated tax payments required under subsections (1) and (2) of this section shall be based on the lesser of:

(a) Twenty-two and one-half percent (22.5%) of the current taxable year tax liability;

(b) Twenty-five percent (25%) of the preceding full year taxable year tax liability; or

(c) Twenty-five percent (25%) of the average tax liability for the three (3) preceding full year taxable years' tax liabilities.

(4) Any business entity that fails to submit the minimum quarterly payment required under subsection (3) of this section by the due date for the quarterly payment shall pay an amount equal to the tax interest rate as defined in KRS 131.010(6) on the amount of quarterly payment required under subsection (3) of this section from the earlier of:

(a) The due date for the quarterly payment until the time when the aggregate quarterly payments submitted for the taxable year equal the minimum aggregate payments due under subsection (3) of this section; or

(b) The due date of the annual return.

(5) The provisions of this section shall not apply to any business entity's first full or partial taxable year of doing business in the tax district or any first taxable year in which a business entity's tax liability exceeds five thousand dollars ($5,000).

SECTION 4. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) In the case where the tax computed under Sections 1 to 17 of this Act is less than the amount which has been declared and paid as estimated tax for the same taxable year, a refund shall be made upon the filing of a return.

(2) (a) Overpayment resulting from the payment of estimated tax in excess of the amount determined to be due upon the filing of a return for the same taxable year may be credited against the amount of estimated tax determined to be due on any declaration filed for the next succeeding taxable year or for any deficiency or nonpayment of tax for any previous taxable year;

(b) No refund shall be made of any estimated tax paid unless a complete return is filed as required by Sections 1 to 17 of this Act.

(3) At the election of the business entity, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

SECTION 5. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) As specified by Sections 1 to 17 of this Act and its application and the federal income tax law and its application, the administrative and judicial interpretations of the federal income tax law, computations of gross income and deductions therefrom, gross receipts or sales, and deductions therefrom, accounting methods, and accounting procedures, for purposes of Sections 1 to 17 of this Act shall be as nearly as practicable identical with those required for federal income tax purposes.

(2) Every business entity subject to the provisions of Sections 1 to 17 of this Act shall keep records, render under oath statements, make returns, and comply with rules as the tax district from time to time may prescribe. Whenever the tax district judges it necessary, it may require a business entity, by notice served to the business entity, to make a return, render under oath statements, or keep records, as the tax district deems sufficient to show whether or not the business entity is liable for tax, and the extent of the liability.

(3) The tax district, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any business entity, may require the attendance of a representative of the business entity or of any other person having knowledge in the premises.

SECTION 6. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

If any business entity dissolves or withdraws from a tax district during any taxable year, or if any business entity in any manner surrenders or loses its charter during any taxable year, the dissolution, withdrawal, or loss or surrender of charter shall not defeat the filing of returns and the assessment and collection of net profit for the period of that taxable year during which the business entity had net profit in the tax district.

SECTION 7. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

If a business entity makes, or is required to make, a federal income tax return, the net profit shall be computed for the purposes of Sections 1 to 17 of this Act on the basis of the same calendar or fiscal year required by the federal government, and shall employ the same methods of accounting required for federal income tax purposes.

SECTION 8. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) All business entities' returns for the preceding taxable year shall be made by April 15 in each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns shall be supplied by the tax district.

(2) Whenever, in the opinion of the tax district, it is necessary to examine the federal income tax return of any business

entity in order to audit the return, the tax district may compel the business entity to produce for inspection a copy of the federal return and all statements and schedules in support thereof. The tax district may also require copies of reports of adjustments made by the federal government.

SECTION 9. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) A tax district may grant any business entity an extension of not more than six (6) months for filing its return, if the business entity, on or before the date prescribed for payment of the tax, requests the extension and pays the amount properly estimated as its tax.

(2) If the time for filing a return is extended, the business entity shall pay, as part of the tax, an amount equal to the tax interest rate as defined in KRS 131.010(6) on the tax shown due on the return, but not previously paid, from the time the tax was due until the return is actually filed with the tax district.

SECTION 10. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section and Section 12 of this Act, unless the context requires otherwise:

(a) "Conclusion of the federal audit" means the date that the adjustments made by the Internal Revenue Service to net income as reported on the business entity's federal income tax return become final and unappealable; and

(b) "Final determination of the federal audit" means the revenue agent's report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service.

(2) As soon as practicable after each return is received, the tax district may examine and audit it. If the amount of tax computed by the tax district is greater than the amount returned by the business entity, the additional tax shall be assessed and a notice of assessment mailed to the business entity by the tax district within four (4) years from the date the return was filed, except as otherwise provided in this subsection.

(a) In the case of a failure to file a return or of a fraudulent return the additional tax may be assessed at any time.

(b) In the case of a return where a business entity understates net profit, or omits an amount properly includable in net profit, or both, which understatement or omission or both is in excess of twenty-five percent (25%) of the amount of net profit stated in the return, the additional tax may be assessed at any time within six (6) years after the return was filed.

(c) In the case of an assessment of additional tax relating directly to adjustments resulting from a final determination of a federal audit, the additional tax may be assessed before the expiration of the times provided in this subsection, or six (6) months from the date the tax district receives the final determination of the federal audit from the business entity, whichever is later.

The times provided in this subsection may be extended by agreement between the business entity and the tax district. For the purposes of this subsection, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day. For taxable years beginning after December 31, 2002, any extension granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

(3) Every business entity shall submit a copy of the final determination of the federal audit within thirty (30) days of the conclusion of the federal audit.

SECTION 11. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The full amount of the unpaid tax payable by any business entity, as appears from the face of the return, shall be paid to the tax district at the time prescribed for filing the income tax return, determined without regard to any extension of time for filing the return.

SECTION 12. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by Sections 1 to 17 of this Act.

(2) Any tax collected pursuant to the provisions of Sections 1 to 17 of this Act may be refunded or credited within four (4) years of the date prescribed by law for the filing of a return or the date the money was paid to the tax district, whichever is the later, except that:

(a) In any case where the assessment period contained in Section 10 of this Act has been extended by an agreement between the business entity and the tax district, the limitation contained in this subsection shall be extended accordingly.

(b) If the claim for refund or credit relates directly to adjustments resulting from a federal audit, the business entity shall file a claim for refund or credit within the time provided for in this subsection or six (6) months from the conclusion of the federal audit, whichever is later.

For the purposes of this subsection and subsection (3) of this section, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.

(3) Overpayments of taxes collected pursuant to KRS 92.281 or Section 18, 19, or 20 of this Act shall be refunded or credited with interest at the tax interest rate as defined in KRS 131.010(6). The interest shall not begin to accrue until ninety (90) days after the tax was paid, the return was filed, or the last day prescribed by law for filing the return, or the

completion of a formal audit, whichever is later.

(4) Exclusive authority to refund or credit overpayments of taxes collected pursuant to KRS 92.281 and Sections 18, 19, and 20 of this Act is vested in the tax district.

SECTION 13. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Every employer making payment of compensation on or after January 1, 2003, shall deduct and withhold upon the compensation a tax determined under KRS 92.281 or Section 18, 19, or 20 of this Act.

SECTION 14. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Every employer required to deduct and withhold tax under Section 13 of this Act shall, for the quarter ending after January 1, 2003, and for each quarter ending thereafter, on or before the end of the month following the close of each quarter make a return and report to the tax district the tax required to be withheld under Section 13 of this Act, unless the employer is permitted or required to report within a reasonable time after some other period as determined by the tax district.

(2) Every employer who fails to withhold or pay to the tax district any sums required by Sections 1 to 17 of this Act to be withheld and paid shall be personally and individually liable to the tax district for any sum or sums withheld in accordance with the provisions of Section 13 of this Act.

(3) The tax district may have a lien upon all the property of any employer who fails to withhold or pay over to the tax district sums required to be withheld under Section 13 of this Act. If the employer withholds but fails to pay the amounts withheld to the tax district, the lien shall accrue as of the date the amounts withheld were required to be paid to the tax district. If the employer fails to withhold, the lien shall accrue at the time the liability of the employer becomes fixed.

(4) Every employer required to deduct and withhold tax under Section 13 of this Act shall annually on or before January 31 of each year complete and file on a form furnished or approved by the tax district a reconciliation of license fee withheld return with each tax district in which compensation is paid or payable to employees. Either copies of federal forms W-2 and W-3, transmittal of wage and tax statements, or a detailed employee listing with equivalent information shall be submitted.

(5) Every employer shall furnish each employee a statement on or before January 31 of each year showing the amount of compensation and license fee deducted and paid by the employer to a tax district during the preceding calendar year.

SECTION 15. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) An employer shall be liable for the payment of the tax required to be deducted and withheld under Section 13 of this Act.

(2) The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any business entity subject to Section 13 of this Act shall be personally and individually liable, both jointly and severally, for any tax required to be withheld under Sections 1 to 17 of this Act from compensation paid to one or more employees of any business entity, and neither the corporate dissolution or withdrawal of the business entity from the tax district nor the cessation of holding any corporate office shall discharge that liability of any person; provided that the personal and individual liability shall apply to each or every person holding the corporate office at the time the tax becomes or became obligated. No person shall be personally and individually liable under this subsection who had not authority to collect, truthfully account for, or pay over any tax imposed by Sections 1 to 17 of this Act at the time that the taxes imposed by Sections 1 to 17 of this Act become or became due.

(3) Every employee receiving compensation in a tax district subject to the tax imposed under KRS 92.281 or Section 18, 19, or 20 of this Act shall be liable for the tax notwithstanding the provisions of subsection (1) and (2) of this section.

SECTION 16. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Where there has been an overpayment of tax under Section 13 of this Act, refund or credit shall be made to the employer only to the extent that the amount of the overpayment was deducted and withheld under Section 13 of this Act by the employer.

(2) Unless written application for refund or credit is received by the tax district from the employer within four (4) years from the date the overpayment was made, no refund or credit shall be allowed.

(3) An employee who has compensation attributable to activities outside a tax district, based on time spent outside the tax district, but whose employer has withheld and remitted the occupational license fee on the compensation to another tax district, may file for a refund. The employee shall provide a schedule and computation sufficient to verify the refund claim and the tax district may confirm with the employer the percentage of time spent and the amount of compensation for activities outside the tax district prior to approval of the refund.

SECTION 17. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Any business entity or employer who violates any of the provisions of Sections 1 to 17 of this Act shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.

(2) Every tax imposed by Sections 1 to 17 of this Act, and all increases, interest, and penalties thereon, shall become, from the time it is due and payable, a personal debt to the tax district from the business entity or other person liable therefor.

(3) In addition to the penalties prescribed in this section, any business entity or employer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class D felony.

(4) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under Sections 1 to 17 of this Act of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, shall be guilty of a Class D felony.

(5) A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by the tax district and required to be filed with the tax district by the provisions of Sections 1 to 17 of this Act, or by the rules of the tax district or by written request for information to the business entity by the tax district.

Section 18. KRS 68.180 is amended to read as follows:

(1) The fiscal court of each county having a population of three hundred thousand (300,000) or more may by order or resolution impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing.

(2) License fees on such *a* business, trade, occupation, or profession for revenue purposes, except those of the common schools, shall be imposed at a percentage rate[~~ or rates~~] not to exceed one and one-fourth percent (1.25%) of*:*

(a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county*;*[~~,~~] and

(b) The net profits of businesses, trades, professions, or occupations from activities conducted in the county.

(3) The provisions of subsection (2) of this section shall not apply to license fees imposed for regulatory purposes[~~ shall not be subject to such limitations~~] as to form and amount. No public service company that pays an ad valorem tax shall be required to pay a license tax, and no license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company, combined trust, banking and title business in this state, any savings and loan association, whether state or federally chartered, or upon income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training, or upon income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections, or in other cases where the county is prohibited by law from imposing a license tax.

(4)[~~(2)~~] The provisions and limitations of subsection *(2)*[~~(1)~~] shall not apply to the license fees authorized by KRS 160.482 to 160.488.

Section 19. KRS 68.197 is amended to read as follows:

(1) The fiscal court of each county having a population of thirty thousand (30,000) or more may by ordinance impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing.

(2) License fees on such *a* business, trade, occupation, or profession for revenue purposes, except those of the common schools, may be imposed at a percentage rate not to exceed one percent (1%) of:

(a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county;

(b) The net profits of self-employed individuals, partnerships, professional associations, or joint ventures resulting from trades, professions, occupations, businesses, or activities conducted in the county; and

(c) The net profits of corporations resulting from trades, professions, occupations, businesses, or activities conducted in the county.

(3) In order to reduce administrative costs and minimize paperwork for employers, employees, and businesses, the fiscal court may provide:

(a)[~~1.~~] For an annual fixed amount license fee which a person may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on salaries, wages, commissions, and other compensation earned within the county for work done and services performed or rendered in the county; and

(b)[~~2.~~] For an annual fixed amount license fee which an individual, partnership, professional association, joint venture, or corporation may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on net profits of businesses, trades, professions, or occupations from activities conducted in the county.

(4) Licenses imposed for regulatory purposes are not subject to such limitations as to form and amount. No public service company that pays an ad valorem tax is required to pay a license tax, and no license tax shall be imposed upon or collected from any insurance company except as provided in KRS 91A.080, bank, trust company, combined bank and trust company, combined trust, banking, and title business in this state, or any savings and loan association whether state or federally chartered, or in other cases where the county is prohibited by law from imposing a license *fee*[~~tax~~].

(5)[~~(2)~~] No license fee shall be imposed or collected on income received by members of the Kentucky National Guard for

active duty training, unit training assemblies, and annual field training, or on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections.

(6)[~~(3)~~] Persons who pay a county license fee pursuant to this section and who also pay a license fee to a city contained in the county may, upon agreement between the county and the city, credit their city license fee against their county license fee.

(7)[~~(4)~~] The provisions of subsection *(6)*[~~(3)~~] of this section notwithstanding, effective with license fees imposed under the provisions of subsection (1) of this section on or after July 15, 1986, persons who pay a county license fee and a license fee to a city contained in the county shall be allowed to credit their city license fee against their county license fee.

(8)[~~(5)~~] On July 14, 2000, the provisions of subsection *(7)*[~~(4)~~] of this section notwithstanding, city license fees not credited against county license fees enacted under this section or KRS 67.083 as of January 1, 2000, shall not be credited against county license fees. However, this exception shall not apply to county license fees enacted for the first time, or increased, on or after January 1, 2000. This provision shall expire July 15, 2002, unless otherwise extended by the General Assembly.

(9)[~~(6)~~] A county that enacted an occupational license fee under the authority of KRS 67.083 shall not be required to reduce its occupational tax rate when it is determined that the population of the county exceeds thirty thousand (30,000).

Section 20. KRS 91.200 is amended to read as follows:

(1) The board of aldermen of every city of the first class, in addition to levying ad valorem taxes, may by ordinance impose license fees on franchises, provide for licensing any business, trade, occupation, or profession and the using, holding, or exhibiting of any animal, article, or other thing.

(2) License fees on a business, trade, occupation, or profession for revenue purposes may be imposed at a percentage rate not to exceed those hereinafter set forth on*:*

(a) Salaries, wages, commissions and other compensations earned by every person within the city for work done and services performed or rendered in the city (all of such being hereinafter collectively referred to as "wages")*;*[~~,~~] and

(b) The net profits of all businesses, professions, or occupations from activities conducted in the city (hereinafter collectively referred to as "net profits").

(3) Licenses imposed for regulatory purposes shall not be subject to such limitations as to form and amount. No company that pays an ad valorem tax and a franchise tax is required to pay a license tax and no license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company or combined trust, banking and title business in this state, any savings and loan association whether state or federally chartered, or upon income received by members of the Kentucky national guard for active duty training, unit training assemblies, and annual field training, or on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections, or in any other case where the city is prohibited by statute from imposing a license tax.

(4)[~~(2) The rate fixed on both "wages" and "net profits" shall be one and one-fourth percent (1.25%).~~

~~(3)~~] License fees or taxes shall be collected by the commissioners of the sinking fund. The proceeds from the taxes shall be paid to the secretary and treasurer of the sinking fund until income from all sources of the sinking fund is sufficient to pay the cost of administration and the interest charges for the current fiscal year of the sinking fund in addition to a sum sufficient to amortize the outstanding principal indebtedness of the city on a yearly basis in accordance with regularly used amortization tables.

(5)[~~(4)~~] Revenue remaining after meeting the foregoing requirements shall be transferred to the city. [~~Such~~]Revenues shall be credited to the general fund of the city as received and may be expended for general purposes or for capital improvements.

(6)[~~(5)~~] The term "capital improvements" as used in this section is limited to additions or improvements of a substantial and permanent nature and services rendered in connection therewith, and includes but is not limited to:

(a) The purchase of rights of way for highways, expressways, and the widening of existing streets;

(b) The purchase of lands for park, recreational, and other governmental facilities and for public off-street parking facilities;

(c) The purchase, construction, reconstruction, renovation, or remodeling of municipal buildings, and facilities;

(d) The replacement of machinery, wires, pipes, structural members or fixtures, and other essential portions of municipal buildings;

(e) The initial equipment of any newly acquired facility wherein any essential governmental function of the municipality may be located or carried on;

(f) The purchase and installation of traffic control devices and fire alarm equipment;

(g) The reconstruction and resurfacing, but not routine maintenance, of streets and other public ways;

(h) The acquisition of motorized equipment purchased as additions to, but not replacements for, existing equipment; and

(i) Engineering and other costs incurred by the city in connection with the construction of public improvements financed under a special assessment plan.

(7)[~~(6)~~] Ad valorem taxes for the benefit of the sinking fund shall not be levied unless the income of the sinking fund is otherwise insufficient to meet such requirements.

(8)[~~(7)~~] Licenses shall be issued and enforced on terms and conditions as prescribed by ordinance.

Section 21. KRS 68.190 is amended to read as follows:

Any amount paid to any city of the first class within such county as a license fee, for the same privilege and for the same period, shall be credited against the county license fee payable under ***subsections***[~~subsection~~] (1) ***and (2)*** of KRS 68.180. Any amount paid to any other city within such county as a license fee, for the same privilege and for the same period, shall be credited against the county license fee payable under ***subsections***[~~subsection~~] (1) ***and (2)*** of KRS 68.180, provided that such city, at least thirty (30) days prior to the beginning of any county fiscal year, has contracted with the fiscal court to contribute annually to the support of joint agencies of such county and one or more cities in the county, an amount which bears the same ratio to the annual appropriation made for such joint agencies by a city of the first class in the county, as the assessed valuations for county tax purposes, as determined by the property valuation administrator, of the real and tangible personal property, excluding franchises, located within the corporate limits of such other cities, respectively, bears to the same assessed valuations within a city of the first class in said county.

The Committee Substitute to **HB 838** is as follows:

HB 838, AN ACT relating to local taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 17, 18, 19, and 20 of this Act and KRS 92.281 unless the context requires otherwise:

(1) "Business entity" means each separate corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;

(2) "Compensation" means wages, salaries, commissions, any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows:

(a) Include any amounts contributed to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including but not limited to salary reduction arrangements under Section 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and

(b) Include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including but not limited to Sections 125 and 132 of the Internal Revenue Code;

(3) "Fiscal year" means fiscal year as defined in Section 7701(a)(24) of the Internal Revenue Code;

(4) "Employee" means employee as defined in Section 3401(c) of the Internal Revenue Code;

(5) "Employer" means employer as defined in Section 3401(d) of the Internal Revenue Code;

(6) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2001, that would otherwise terminate;

(7) "Net profit" in case of a business entity means gross income as defined in Section 61 of the Internal Revenue Code minus all the deductions from gross income allowed by Chapter 1 of the Internal Revenue Code, and adjusted as follows:

(a) Include any amount claimed as a deduction for state tax or local tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, local taxing authority in a state, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision thereof;

(b) Include any amount claimed as a deduction that directly or indirectly is allocable to income which is either exempt from taxation or otherwise not taxed;

(c) Include any amount claimed as a net operating loss carryback or carryforward allowed under Section 172 of the Internal Revenue Code;

(d) Include any amount of income and expenses passed through separately as required by the Internal Revenue

Code to an owner of a business entity that is a pass-through entity for federal tax purposes;

(e) Exclude any amount of income that is exempt from state taxation by the Kentucky Constitution, or the Constitution and statutory laws of the United States;

(8) "Person" means person as defined in Section 7701(a)(1) of the Internal Revenue Code;

(9) "Tax district" means a city of the first to fifth class, county, urban-county, charter county, or consolidated local government;

(10) "Taxable net profit" in case of a business entity having payroll only in one (1) tax district means net profit as defined in subsection (7) of this section;

(11) "Taxable net profit" in case of a business entity having payroll both within and without a tax district means net profit as defined in subsection (7) of this section, and as apportioned under Section 2 of this Act; and

(12) "Taxable year" means the calendar year or fiscal year ending during the calendar year, upon the basis of which net income is computed.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided for in subsection (2) of this section, net profit shall be apportioned to the tax district by multiplying the net profit by a fraction, the numerator of which is the payroll factor plus the sales factor, and the denominator of which is two (2).

(a) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in the tax district during the tax period by the business entity for compensation, and the denominator of which is the total compensation paid or payable by the business entity everywhere during the tax period. Compensation is paid or payable in the tax district based on the time the individual's service is performed within the tax district.

(b) 1. The sales factor is a fraction, the numerator of which is the total sales of the business entity in the tax district during the tax period, and the denominator of which is the total sales of the business entity everywhere during the tax period.

2. Sales of tangible personal property are in the tax district if:

a. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within the tax district regardless of the f.o.b. point or other conditions of the sale; or

b. The property is shipped from an office, store, warehouse, factory, or other place of storage in the tax district and the purchaser is the United States government.

3. Sales, other than sales of tangible personal property, are apportioned to the tax district based upon a fraction, the numerator of which is the time spent in performing such income-producing activity within the tax district and the denominator of which is the total time spent performing that income-producing activity.

(2) If the apportionment provisions of this section do not fairly represent the extent of the business entity's activity in the tax district, the business entity may petition for or the tax district may require, in respect to all or any part of the business entity's business activity, if reasonable:

(a) Separate accounting;

(b) The exclusion of any one (1) or more of the factors;

(c) The inclusion of one (1) or more additional factors which will fairly represent the business entity's business activity in the tax district; or

(d) The employment of any other method to effectuate an equitable allocation and apportionment of net profit.

SECTION 3. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Every business entity, other than a sole proprietorship, subject to taxation under KRS 92.281 or Section 18, 19, or 20 of this Act, shall make quarterly estimated tax payments on or before the fifteenth day of the fourth, sixth, ninth, and twelfth month of each taxable year if the tax liability for the taxable year exceeds five thousand dollars ($5,000).

(2) Every business entity that is a sole proprietorship, subject to taxation under KRS 92.281 or Section 18, 19, or 20 of this Act, shall make quarterly estimated tax payments on or before the fifteenth day of the fourth, sixth, and ninth month of each taxable year and on the fifteenth day of the month after the close of the taxable year if the tax liability for the taxable year exceeds five thousand dollars ($5,000).

(3) The quarterly estimated tax payments required under subsections (1) and (2) of this section shall be based on the lesser of:

(a) Twenty-two and one-half percent (22.5%) of the current taxable year tax liability;

(b) Twenty-five percent (25%) of the preceding full year taxable year tax liability; or

(c) Twenty-five percent (25%) of the average tax liability for the three (3) preceding full year taxable years' tax liabilities.

(4) Any business entity that fails to submit the minimum quarterly payment required under subsection (3) of this section by the due date for the quarterly payment shall pay an amount equal to the tax interest rate as defined in KRS 131.010(6) on the amount of quarterly payment required under subsection (3) of this section from the earlier of:

(a) The due date for the quarterly payment until the time when the aggregate quarterly payments submitted for the taxable year equal the minimum aggregate payments due under subsection (3) of this section; or

(b) The due date of the annual return.

(5) The provisions of this section shall not apply to any business entity's first full or partial taxable year of doing business in the tax district or any first taxable year in which a business entity's tax liability exceeds five thousand dollars ($5,000).

SECTION 4. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) In the case where the tax computed under Sections 1 to 17 of this Act is less than the amount which has been declared and paid as estimated tax for the same taxable year, a refund shall be made upon the filing of a return.

(2) (a) Overpayment resulting from the payment of estimated tax in excess of the amount determined to be due upon the filing of a return for the same taxable year may be credited against the amount of estimated tax determined to be due on any declaration filed for the next succeeding taxable year or for any deficiency or nonpayment of tax for any previous taxable year;

(b) No refund shall be made of any estimated tax paid unless a complete return is filed as required by Sections 1 to 17 of this Act.

(3) At the election of the business entity, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

SECTION 5. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) As specified by Sections 1 to 17 of this Act and its application and the federal income tax law and its application, the administrative and judicial interpretations of the federal income tax law, computations of gross income and deductions therefrom, gross receipts or sales, and deductions therefrom, accounting methods, and accounting procedures, for purposes of Sections 1 to 17 of this Act shall be as nearly as practicable identical with those required for federal income tax purposes.

(2) Every business entity subject to the provisions of Sections 1 to 17 of this Act shall keep records, render under oath statements, make returns, and comply with rules as the tax district from time to time may prescribe. Whenever the tax district judges it necessary, it may require a business entity, by notice served to the business entity, to make a return, render under oath statements, or keep records, as the tax district deems sufficient to show whether or not the business entity is liable for tax, and the extent of the liability.

(3) The tax district, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any business entity, may require the attendance of a representative of the business entity or of any other person having knowledge in the premises.

SECTION 6. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

If any business entity dissolves or withdraws from a tax district during any taxable year, or if any business entity in any manner surrenders or loses its charter during any taxable year, the dissolution, withdrawal, or loss or surrender of charter shall not defeat the filing of returns and the assessment and collection of net profit for the period of that taxable year during which the business entity had net profit in the tax district.

SECTION 7. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

If a business entity makes, or is required to make, a federal income tax return, the net profit shall be computed for the purposes of Sections 1 to 17 of this Act on the basis of the same calendar or fiscal year required by the federal government, and shall employ the same methods of accounting required for federal income tax purposes.

SECTION 8. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) All business entities' returns for the preceding taxable year shall be made by April 15 in each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns shall be supplied by the tax district.

(2) Whenever, in the opinion of the tax district, it is necessary to examine the federal income tax return of any business entity in order to audit the return, the tax district may compel the business entity to produce for inspection a copy of the federal return and all statements and schedules in support thereof. The tax district may also require copies of reports of adjustments made by the federal government.

SECTION 9. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) A tax district may grant any business entity an extension of not more than six (6) months for filing its return, if the business entity, on or before the date prescribed for payment of the tax, requests the extension and pays the amount properly estimated as its tax.

(2) If the time for filing a return is extended, the business entity shall pay, as part of the tax, an amount equal to the tax

interest rate as defined in KRS 131.010(6) on the tax shown due on the return, but not previously paid, from the time the tax was due until the return is actually filed with the tax district.

SECTION 10. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section and Section 12 of this Act, unless the context requires otherwise:

(a) "Conclusion of the federal audit" means the date that the adjustments made by the Internal Revenue Service to net income as reported on the business entity's federal income tax return become final and unappealable; and

(b) "Final determination of the federal audit" means the revenue agent's report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service.

(2) As soon as practicable after each return is received, the tax district may examine and audit it. If the amount of tax computed by the tax district is greater than the amount returned by the business entity, the additional tax shall be assessed and a notice of assessment mailed to the business entity by the tax district within four (4) years from the date the return was filed, except as otherwise provided in this subsection.

(a) In the case of a failure to file a return or of a fraudulent return the additional tax may be assessed at any time.

(b) In the case of a return where a business entity understates net profit, or omits an amount properly includable in net profit, or both, which understatement or omission or both is in excess of twenty-five percent (25%) of the amount of net profit stated in the return, the additional tax may be assessed at any time within six (6) years after the return was filed.

(c) In the case of an assessment of additional tax relating directly to adjustments resulting from a final determination of a federal audit, the additional tax may be assessed before the expiration of the times provided in this subsection, or six (6) months from the date the tax district receives the final determination of the federal audit from the business entity, whichever is later.

The times provided in this subsection may be extended by agreement between the business entity and the tax district. For the purposes of this subsection, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day. Any extension granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

(3) Every business entity shall submit a copy of the final determination of the federal audit within thirty (30) days of the conclusion of the federal audit.

SECTION 11. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The full amount of the unpaid tax payable by any business entity, as appears from the face of the return, shall be paid to the tax district at the time prescribed for filing the income tax return, determined without regard to any extension of time for filing the return.

SECTION 12. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by Sections 1 to 17 of this Act.

(2) Any tax collected pursuant to the provisions of Sections 1 to 17 of this Act may be refunded or credited within four (4) years of the date prescribed by law for the filing of a return or the date the money was paid to the tax district, whichever is the later, except that:

(a) In any case where the assessment period contained in Section 10 of this Act has been extended by an agreement between the business entity and the tax district, the limitation contained in this subsection shall be extended accordingly.

(b) If the claim for refund or credit relates directly to adjustments resulting from a federal audit, the business entity shall file a claim for refund or credit within the time provided for in this subsection or six (6) months from the conclusion of the federal audit, whichever is later.

For the purposes of this subsection and subsection (3) of this section, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.

(3) Overpayments of taxes collected pursuant to KRS 92.281 or Section 18, 19, or 20 of this Act shall be refunded or credited with interest at the tax interest rate as defined in KRS 131.010(6). The interest shall not begin to accrue until ninety (90) days after the tax was paid, the return was filed, or the last day prescribed by law for filing the return, or the completion of a formal audit, whichever is later.

(4) Exclusive authority to refund or credit overpayments of taxes collected pursuant to KRS 92.281 and Sections 18, 19, and 20 of this Act is vested in the tax district.

SECTION 13. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Every employer making payment of compensation shall deduct and withhold upon the compensation a tax determined under KRS 92.281 or Section 18, 19, or 20 of this Act.

SECTION 14. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Every employer required to deduct and withhold tax under Section 13 of this Act shall, for the quarter ending after

January 1 and for each quarter ending thereafter, on or before the end of the month following the close of each quarter make a return and report to the tax district the tax required to be withheld under Section 13 of this Act, unless the employer is permitted or required to report within a reasonable time after some other period as determined by the tax district.

(2) Every employer who fails to withhold or pay to the tax district any sums required by Sections 1 to 17 of this Act to be withheld and paid shall be personally and individually liable to the tax district for any sum or sums withheld in accordance with the provisions of Section 13 of this Act.

(3) The tax district may have a lien upon all the property of any employer who fails to withhold or pay over to the tax district sums required to be withheld under Section 13 of this Act. If the employer withholds but fails to pay the amounts withheld to the tax district, the lien shall accrue as of the date the amounts withheld were required to be paid to the tax district. If the employer fails to withhold, the lien shall accrue at the time the liability of the employer becomes fixed.

(4) Every employer required to deduct and withhold tax under Section 13 of this Act shall annually on or before January 31 of each year complete and file on a form furnished or approved by the tax district a reconciliation of license fee withheld return with each tax district in which compensation is paid or payable to employees. Either copies of federal forms W-2 and W-3, transmittal of wage and tax statements, or a detailed employee listing with equivalent information shall be submitted.

(5) Every employer shall furnish each employee a statement on or before January 31 of each year showing the amount of compensation and license fee deducted by the employer from the compensation paid to the employee for payment to a tax district during the preceding calendar year.

SECTION 15. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) An employer shall be liable for the payment of the tax required to be deducted and withheld under Section 13 of this Act.

(2) The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any business entity subject to Section 13 of this Act shall be personally and individually liable, both jointly and severally, for any tax required to be withheld under Sections 1 to 17 of this Act from compensation paid to one or more employees of any business entity, and neither the corporate dissolution or withdrawal of the business entity from the tax district nor the cessation of holding any corporate office shall discharge that liability of any person; provided that the personal and individual liability shall apply to each or every person holding the corporate office at the time the tax becomes or became obligated. No person shall be personally and individually liable under this subsection who had not authority to collect, truthfully account for, or pay over any tax imposed by Sections 1 to 17 of this Act at the time that the taxes imposed by Sections 1 to 17 of this Act become or became due.

(3) Every employee receiving compensation in a tax district subject to the tax imposed under KRS 92.281 or Section 18, 19, or 20 of this Act shall be liable for the tax notwithstanding the provisions of subsection (1) and (2) of this section.

SECTION 16. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Where there has been an overpayment of tax under Section 13 of this Act, refund or credit shall be made to the employer only to the extent that the amount of the overpayment was deducted and withheld under Section 13 of this Act by the employer.

(2) Unless written application for refund or credit is received by the tax district from the employer within four (4) years from the date the overpayment was made, no refund or credit shall be allowed.

(3) An employee who has compensation attributable to activities outside a tax district, based on time spent outside the tax district, but whose employer has withheld and remitted the occupational license fee on the compensation to another tax district, may file for a refund. The employee shall provide a schedule and computation sufficient to verify the refund claim and the tax district may confirm with the employer the percentage of time spent and the amount of compensation for activities outside the tax district prior to approval of the refund.

SECTION 17. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Any business entity or employer who violates any of the provisions of Sections 1 to 17 of this Act shall be subject to the uniform civil penalties pursuant to KRS 131.180 and imposed by the tax district.

(2) Every tax imposed by Sections 1 to 17 of this Act, and all increases, interest, and penalties thereon, shall become, from the time it is due and payable, a personal debt to the tax district from the business entity or other person liable therefor.

(3) In addition to the penalties prescribed in this section, any business entity or employer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class A misdemeanor.

(4) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under Sections 1 to 17 of this Act of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, shall be guilty of a Class A misdemeanor.

(5) A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by the tax district and required to be filed with the tax district by the provisions of Sections 1 to 17 of this Act, or by the rules of the tax district or by written request for information to the business entity by the tax district.

Section 18. KRS 68.180 is amended to read as follows:

(1) The fiscal court of each county having a population of three hundred thousand (300,000) or more may by order or resolution impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing.

(2) License fees on such *a* business, trade, occupation, or profession for revenue purposes, except those of the common schools, shall be imposed at a percentage rate[~~ or rates~~] not to exceed one and one-fourth percent (1.25%) of*:*

(a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county*;*[~~,~~] and

(b) The net profits of businesses, trades, professions, or occupations from activities conducted in the county.

(3) The provisions of subsection (2) of this section shall not apply to license fees imposed for regulatory purposes[~~ shall not be subject to such limitations~~] as to form and amount. No public service company that pays an ad valorem tax shall be required to pay a license tax, and no license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company, combined trust, banking and title business in this state, any savings and loan association, whether state or federally chartered, or upon income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training, or upon income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections, or in other cases where the county is prohibited by law from imposing a license tax.

(4)[~~(2)~~] The provisions and limitations of subsection *(2)*[~~(1)~~] shall not apply to the license fees authorized by KRS 160.482 to 160.488.

Section 19. KRS 68.197 is amended to read as follows:

(1) The fiscal court of each county having a population of thirty thousand (30,000) or more may by ordinance impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing.

(2) License fees on such *a* business, trade, occupation, or profession for revenue purposes, except those of the common schools, may be imposed at a percentage rate not to exceed one percent (1%) of:

(a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county;

(b) The net profits of self-employed individuals, partnerships, professional associations, or joint ventures resulting from trades, professions, occupations, businesses, or activities conducted in the county; and

(c) The net profits of corporations resulting from trades, professions, occupations, businesses, or activities conducted in the county.

(3) In order to reduce administrative costs and minimize paperwork for employers, employees, and businesses, the fiscal court may provide:

(a)[~~1.~~] For an annual fixed amount license fee which a person may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on salaries, wages, commissions, and other compensation earned within the county for work done and services performed or rendered in the county; and

(b)[~~2.~~] For an annual fixed amount license fee which an individual, partnership, professional association, joint venture, or corporation may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on net profits of businesses, trades, professions, or occupations from activities conducted in the county.

(4) Licenses imposed for regulatory purposes are not subject to such limitations as to form and amount. No public service company that pays an ad valorem tax is required to pay a license tax, and no license tax shall be imposed upon or collected from any insurance company except as provided in KRS 91A.080, bank, trust company, combined bank and trust company, combined trust, banking, and title business in this state, or any savings and loan association whether state or federally chartered, or in other cases where the county is prohibited by law from imposing a license *fee*[~~tax~~].

(5)[~~(2)~~] No license fee shall be imposed or collected on income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training, or on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections.

(6)[~~(3)~~] Persons who pay a county license fee pursuant to this section and who also pay a license fee to a city contained in the county may, upon agreement between the county and the city, credit their city license fee against their county license fee.

(7)[~~(4)~~] The provisions of subsection *(6)*[~~(3)~~] of this section notwithstanding, effective with license fees imposed under the provisions of subsection (1) of this section on or after July 15, 1986, persons who pay a county license fee and a license fee to a city contained in the county shall be allowed to credit their city license fee against their county license fee.

(8)[~~(5)~~] On July 14, 2000, the provisions of subsection *(7)*[~~(4)~~] of this section notwithstanding, city license fees not credited against county license fees enacted under this section or KRS 67.083 as of January 1, 2000, shall not be credited against county license fees. However, this exception shall not apply to county license fees enacted for the first time, or increased, on or after January 1, 2000. This provision shall expire July 15, 2002, unless otherwise extended by the General Assembly.

(9)[~~(6)~~] A county that enacted an occupational license fee under the authority of KRS 67.083 shall not be required to reduce its occupational tax rate when it is determined that the population of the county exceeds thirty thousand (30,000).

Section 20. KRS 91.200 is amended to read as follows:

(1) The board of aldermen of every city of the first class, in addition to levying ad valorem taxes, may by ordinance impose license fees on franchises, provide for licensing any business, trade, occupation, or profession and the using, holding, or exhibiting of any animal, article, or other thing.

(2) License fees on a business, trade, occupation, or profession for revenue purposes may be imposed at a percentage rate not to exceed those hereinafter set forth on*:*

(a) Salaries, wages, commissions and other compensations earned by every person within the city for work done and services performed or rendered in the city (all of such being hereinafter collectively referred to as "wages")*;*[~~,~~] and

(b) The net profits of all businesses, professions, or occupations from activities conducted in the city (hereinafter collectively referred to as "net profits").

(3) Licenses imposed for regulatory purposes shall not be subject to such limitations as to form and amount. No company that pays an ad valorem tax and a franchise tax is required to pay a license tax and no license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company or combined trust, banking and title business in this state, any savings and loan association whether state or federally chartered, or upon income received by members of the Kentucky national guard for active duty training, unit training assemblies, and annual field training, or on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections, or in any other case where the city is prohibited by statute from imposing a license tax.

(4)[~~(2)~~] The rate fixed on both "wages" and "net profits" shall be one and one-fourth percent (1.25%).

(5)[~~(3)~~] License fees or taxes shall be collected by the commissioners of the sinking fund. The proceeds from the taxes shall be paid to the secretary and treasurer of the sinking fund until income from all sources of the sinking fund is sufficient to pay the cost of administration and the interest charges for the current fiscal year of the sinking fund in addition to a sum sufficient to amortize the outstanding principal indebtedness of the city on a yearly basis in accordance with regularly used amortization tables.

(6)[~~(4)~~] Revenue remaining after meeting the foregoing requirements shall be transferred to the city. [~~Such~~]Revenues shall be credited to the general fund of the city as received and may be expended for general purposes or for capital improvements.

(7)[~~(5)~~] The term "capital improvements" as used in this section is limited to additions or improvements of a substantial and permanent nature and services rendered in connection therewith, and includes but is not limited to:

(a) The purchase of rights of way for highways, expressways, and the widening of existing streets;

(b) The purchase of lands for park, recreational, and other governmental facilities and for public off-street parking facilities;

(c) The purchase, construction, reconstruction, renovation, or remodeling of municipal buildings, and facilities;

(d) The replacement of machinery, wires, pipes, structural members or fixtures, and other essential portions of municipal buildings;

(e) The initial equipment of any newly acquired facility wherein any essential governmental function of the municipality may be located or carried on;

(f) The purchase and installation of traffic control devices and fire alarm equipment;

(g) The reconstruction and resurfacing, but not routine maintenance, of streets and other public ways;

(h) The acquisition of motorized equipment purchased as additions to, but not replacements for, existing equipment; and

(i) Engineering and other costs incurred by the city in connection with the construction of public improvements financed under a special assessment plan.

(8)[~~(6)~~] Ad valorem taxes for the benefit of the sinking fund shall not be levied unless the income of the sinking fund is otherwise insufficient to meet such requirements.

(9)[~~(7)~~] Licenses shall be issued and enforced on terms and conditions as prescribed by ordinance.

Section 21. KRS 68.190 is amended to read as follows:

Any amount paid to any city of the first class within such county as a license fee, for the same privilege and for the same period, shall be credited against the county license fee payable under ***subsections***[~~subsection~~] (1) ***and (2)*** of KRS 68.180. Any amount paid to any other city within such county as a license fee, for the same privilege and for the same period, shall be credited against the county license fee payable under *subsections*~~[subsection]~~ (1) *and (2)* of KRS 68.180, provided that such city, at least thirty (30) days prior to the beginning of any county fiscal year, has contracted with the fiscal court to contribute annually to the support of joint agencies of such county and one or more cities in the county, an amount which bears the same ratio to the annual appropriation made for such joint agencies by a city of the first class in the county, as the assessed valuations for county tax purposes, as determined by the property valuation administrator, of the real and tangible personal property, excluding franchises, located within the corporate limits of such other cities, respectively, bears to the same assessed valuations within a city of the first class in said county.

Section 22. The provisions of Sections 1 to 17 of this Act shall apply to any tax district that enacts for the first time an occupational license fee or a tax on net profits or to any tax district that amends by ordinance or resolution an existing occupational license fee or tax on net profits, provided however the provisions of Sections 1 to 17 of this Act shall apply to all tax districts on and after January 1, 2006.

HB 839, AN ACT relating to the transportation of persons for hire.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "local government" means the governing body of:

(a) A consolidated local government organized under KRS Chapter 67C; or

(b) An urban-county government organized under KRS Chapter 67A.

(2) Notwithstanding any other provision of this chapter, a local government that complies with the requirements of this section may be granted authority over the regulation of taxicabs in that local government's jurisdiction.

(3) A local government that desires to regulate taxicab service within its jurisdiction shall:

(a) Adopt a resolution by October 1 of any given year expressing its intent to exercise regulatory authority over taxicabs and requesting that the Transportation Cabinet grant the local government regulatory authority over taxicabs; and

(b) Enact an ordinance by January 1 of the following year pursuant to subsection (4) of this section and submit it to the cabinet for approval pursuant to subsection (5) of this section.

(4) A local government that desires to regulate taxicab service within its jurisdiction shall adopt an ordinance regarding the regulation of taxicabs which addresses the following areas of public comfort, safety, and convenience:

(a) A local taxicab permit system to ensure the safety and road worthiness of each taxicab as outlined in Section 2 of this Act, including inspection requirements, out-of-service criteria, and penalties for submitting fraudulent service records. All taxicabs operated under this section shall be required to be registered and display registration plates under the provisions of KRS Chapters 186 and 186A;

(b) A local taxicab driver permit system to ensure the fitness of drivers, including criminal background checks, display of permits, and revocation or suspension of local driver permits. All drivers of taxicabs operated under this section shall be required to possess a motor vehicle operator's license under the provisions of KRS Chapter 186;

(c) Rates and fares, and receipts therefor;

(d) Procedures for considering applications from a permit holder to change the number of taxicabs that a taxi permit holder has in operation;

(e) Procedures for the sale, transfer, and leasing of taxicab permits;

(f) Routes and areas of service, including changes of route or abandonment of service areas;

(g) Dispatching of taxicabs;

(h) Bonding and liability insurance requirements which shall not be less than those requirements in KRS 281.655(4);

(i) Handling of claims for loss, damage, or injury;

(j) Fees to be paid by taxicab permit holders;

(k) Record keeping required by permit holders and drivers, including trip records;

(l) Hearing and appeals processes;

(m) Taxicab permit renewal procedures;

(n) Competition in the market; and

(o) Penalties for the operation of unlicensed taxicabs, and for any other violations.

(5) Before granting a local government's request to regulate taxicab service, the cabinet shall review the ordinance passed by the local government and determine that the required elements of subsection (4) of this section are properly

addressed. If the cabinet determines that the ordinance meets the requirements of subsection (4) of this section, the cabinet shall grant regulatory authority over taxicab service in that jurisdiction to the local government.

(6) If, at any time, the cabinet determines that a local government granted regulatory control over taxicab service under this section is not providing adequate control over that service, the cabinet may revoke the regulatory authority it granted to the local government under this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "taxicab" means a vehicle operating under:

(a) A local taxicab permit issued by a local government in accordance with Section 1 of this Act;

(b) A city taxicab certificate issued by the department under this chapter; or

(c) A county taxicab certificate issued by the department under this chapter.

(2) All taxicabs operating under a permit issued by a local government in accordance with Section 1 of this Act or a certificate issued by the department under this chapter shall undergo an annual safety inspection. The inspection shall be performed by an automotive technician who holds a valid automotive service excellence (a.s.e.) certification recognized by the department.

(3) All taxicab operators shall, when applying for or renewing a taxicab permit or certificate, file proof with the department or local government that each taxicab to be operated under the permit or certificate has successfully passed a safety inspection. The inspection shall be performed by an automotive technician who holds a valid automotive service excellence (a.s.e.) certification recognized by the department.

(4) A local government with regulatory authority under Section 1 of this Act shall enact an ordinance and the department shall promulgate administrative regulations under KRS Chapter 13A to establish safety and out-of-service criteria for a taxicab that it regulates that fails to successfully pass the annual safety inspection required by subsection (2) of this section. The department or local government shall immediately reinstate a taxicab taken out-of-service under this subsection upon receipt of written proof documenting that the deficiencies causing the taxicab to fail the annual safety inspection have been corrected.

(5) The department or local government shall have the authority to revoke the taxicab certificate or permit of, and to permanently deny a taxicab certificate or permit to, any person who willfully and intentionally files a fraudulent safety inspection record for any taxicab.

SECTION 3. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

If the Transportation Cabinet grants a local government regulatory authority over taxicabs under Section 1 of this Act, the local government shall grant an existing certificate holder a local taxicab permit for the number of vehicles the certificate holder has in effect on the date the local government is granted regulatory authority, provided the vehicles meet the safety requirements outlined in Section 2 of this Act. Renewal of the permit shall be subject to the local ordinance passed pursuant to Section 1 of this Act.

The Committee Substitute to **HB 839** is as follows:

HB 839, AN ACT relating to the transportation of persons for hire.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "local government" means the governing body of:

(a) A consolidated local government organized under KRS Chapter 67C; or

(b) An urban-county government organized under KRS Chapter 67A.

(2) Notwithstanding any other provision of this chapter, a local government that complies with the requirements of this section may be granted authority over the regulation of taxicabs in that local government's jurisdiction.

(3) A local government that desires to regulate taxicab service within its jurisdiction shall:

(a) Adopt a resolution by October 1 of any given year expressing its intent to exercise regulatory authority over taxicabs and requesting that the Transportation Cabinet grant the local government regulatory authority over taxicabs; and

(b) Enact an ordinance by January 1 of the following year pursuant to subsection (4) of this section and submit it to the cabinet for approval pursuant to subsection (5) of this section.

(4) A local government that desires to regulate taxicab service within its jurisdiction shall adopt an ordinance regarding the regulation of taxicabs which addresses the following areas of public comfort, safety, and convenience:

(a) A local taxicab permit system to ensure the safety and road worthiness of each taxicab as outlined in Section 2 of this Act, including inspection requirements, out-of-service criteria, and penalties for submitting fraudulent service records. All taxicabs operated under this section shall be required to be registered and display registration plates under the provisions of KRS Chapters 186 and 186A;

(b) A local taxicab driver permit system to ensure the fitness of drivers, including criminal background checks, display of permits, and revocation or suspension of local driver permits. All drivers of taxicabs operated under this section shall be required to possess a motor vehicle operator's license under the provisions of KRS Chapter 186;

(c) Rates and fares, and receipts therefor;

(d) Procedures for considering applications from a permit holder to change the number of taxicabs that a taxi permit holder has in operation;

(e) Procedures for the sale, transfer, and leasing of taxicab permits;

(f) Routes and areas of service, including changes of route or abandonment of service areas;

(g) Dispatching of taxicabs;

(h) Bonding and liability insurance requirements which shall not be less than those requirements in KRS 281.655(4);

(i) Handling of claims for loss, damage, or injury;

(j) Fees to be paid by taxicab permit holders;

(k) Record keeping required by permit holders and drivers, including trip records;

(l) Hearing and appeals processes;

(m) Taxicab permit renewal procedures;

(n) Competition in the market; and

(o) Penalties for the operation of unlicensed taxicabs, and for any other violations.

(5) Before granting a local government's request to regulate taxicab service, the cabinet shall review the ordinance passed by the local government and determine that the required elements of subsection (4) of this section are properly addressed. If the cabinet determines that the ordinance meets the requirements of subsection (4) of this section, the cabinet shall grant regulatory authority over taxicab service in that jurisdiction to the local government.

(6) If, at any time, the cabinet determines that a local government granted regulatory control over taxicab service under this section is not providing adequate control over that service, the cabinet may revoke the regulatory authority it granted to the local government under this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "taxicab" means a vehicle operating under:

(a) A local taxicab permit issued by a local government in accordance with Section 1 of this Act;

(b) A city taxicab certificate issued by the department under this chapter; or

(c) A county taxicab certificate issued by the department under this chapter.

(2) All taxicabs operating under a permit issued by a local government in accordance with Section 1 of this Act or a certificate issued by the department under this chapter shall undergo an annual safety inspection. The inspection shall be performed by an automotive technician who holds a valid automotive service excellence (a.s.e.) certification recognized by the department.

(3) All taxicab operators shall, when applying for or renewing a taxicab permit or certificate, file proof with the department or local government that each taxicab to be operated under the permit or certificate has successfully passed a safety inspection. The inspection shall be performed by an automotive technician who holds a valid automotive service excellence (a.s.e.) certification recognized by the department.

(4) A local government with regulatory authority under Section 1 of this Act shall enact an ordinance and the department shall promulgate administrative regulations under KRS Chapter 13A to establish safety and out-of-service criteria for a taxicab that it regulates that fails to successfully pass the annual safety inspection required by subsection (2) of this section. The department or local government shall immediately reinstate a taxicab taken out-of-service under this subsection upon receipt of written proof documenting that the deficiencies causing the taxicab to fail the annual safety inspection have been corrected.

(5) The department or local government shall have the authority to revoke the taxicab certificate or permit of, and to permanently deny a taxicab certificate or permit to, any person who willfully and intentionally files a fraudulent safety inspection record for any taxicab.

SECTION 3. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

If the Transportation Cabinet grants a local government regulatory authority over taxicabs under Section 1 of this Act, the local government shall grant an existing certificate holder a local taxicab permit for the number of vehicles the certificate holder has in effect on the date the local government is granted regulatory authority, provided the vehicles meet the safety requirements outlined in Section 2 of this Act. Renewal of the permit shall be subject to the local ordinance passed pursuant to Section 1 of this Act.

Section 4. KRS 138.446 is amended to read as follows:

(1) City and suburban bus companies and taxicab companies operating under a certificate of convenience and necessity issued pursuant to KRS Chapter 281, ***taxicab companies regulated by a consolidated local government organized under KRS Chapter 67C or by an urban-county government organized under KRS Chapter 67A,*** holders of a nonprofit bus certificate as provided by KRS 281.619, and senior citizen programs which utilize Title III funds of the Older Americans Act in the provision of transportation services shall be entitled to a refund of seven-ninths (7/9) of the amount of KRS Chapter 138 taxes paid on motor fuels used in their regularly scheduled operations in Kentucky.

(2) No person shall be entitled to a refund pursuant to this section unless he shall have first filed with the cabinet a bond issued by a surety company authorized to do business in Kentucky in an amount of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) to be determined by the cabinet, conditioned upon faithful compliance with this section and upon the payment to the Commonwealth of any refunds to which he was not entitled.

(3) Applications for refund shall be filed with the cabinet on a calendar quarter or calendar year basis on forms and in the manner prescribed by it for refund of tax paid on motor fuel used by buses or taxicabs. Each application for a refund shall show the number of gallons of motor fuel purchased during the quarter for use in buses or taxicabs; the date and quantity of each purchase; the vendor from whom the fuel was purchased; the number of gallons on which refund is claimed; and other information the cabinet may require. Invoices shall be attached to applications from taxicab companies.

(4) The cabinet may require any gasoline dealer or any dealer's authorized agent to identify gasoline sold by him for taxicab use by adding any chemical or substance, which shall be furnished by the cabinet and used in the manner as prescribed by the cabinet. The cabinet also may require that the dealer keep a complete record of all the gasoline sold by him, which records shall give the date of each sale, the number of gallons sold, the name of the person to whom sold, and the sale price.

(5) The cabinet shall audit the application and make any other investigation it deems necessary to determine whether it constitutes a proper claim. When the cabinet is satisfied that a refund is proper, it shall authorize seven-ninths (7/9) of the amount of the tax paid to be refunded as other refunds are made and the amount refunded shall be deducted from current motor fuel tax receipts. The tax shall be refunded with interest at the tax interest rate as defined in KRS 131.010(6).

(6) When the cabinet finds that an application for a refund contains a false or fraudulent statement or that a refund has been fraudulently obtained, the cabinet shall refuse to grant any refunds to the person making the false or fraudulent statement or fraudulently obtaining a refund for a period of two (2) years from the date of the findings.

(7) The cabinet may prescribe, promulgate and enforce administrative regulations relating to the administration and enforcement of this section.

(8) The refund provided for in this section shall be effective on motor fuel purchased on or after July 1, 1978.

The Committee Amendment No. 1 Title to **HB 839** is as follows:

On page 1, amend the title to read as follows:

"AN ACT relating to taxicabs.".

HB 852, AN ACT relating to police merit boards in a consolidated local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 14 of this Act, unless the context otherwise requires:

(1) "Board" means the consolidated local government police force merit board or boards hereinafter created.

(2) "Chief" means a chief of a consolidated local government police force affected by Sections 1 to 14 of this Act.

(3) "Assistant chief" means the next in command to the chiefs of the consolidated local government police force or forces affected by Sections 1 to 14 of this Act.

(4) "Secretary" means the executive secretary and examiner employed by the consolidated local government police force merit board or boards created as provided by Sections 1 to 14 of this Act.

(5) "Officer" means any member of the consolidated local government police forces affected by Sections 1 to 14 of this Act, including chiefs, assistant chiefs, and patrol officers, corporals, sergeants, lieutenants, and captains unless specifically excluded.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) A consolidated local government shall, by ordinance, create a consolidated local government police force merit system and in the same ordinance shall establish a consolidated local government police force merit board. A board shall classify and examine applicants seeking employment as officers of the police force of the consolidated local government, excluding applicants for the positions of chief, assistant chief, and officers above the rank of captain. The board, except when prohibited, shall promulgate rules and regulations not inconsistent with Sections 1 to 14 of this Act governing the classification, qualification, examination, appointment, probation, promotion, demotion, suspension,

and other disciplinary action within the consolidated local government police force of all officers affected and covered by the provisions of Sections 1 to 14 of this Act, and shall hold hearings and impose, if necessary, penalties upon the personnel affected by Sections 1 to 14 of this Act.

(2) The legislative council of the consolidated local government shall annually appropriate funds for the reasonable and necessary expenses of the board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) The mayor, subject to the approval of the legislative council of the consolidated local government, shall appoint four (4) persons, who shall constitute the consolidated local government police force merit board of the consolidated local government. The members of the board shall serve without compensation. Each board appointee shall be at least thirty (30) years of age, a resident of the consolidated local government, and not related by either blood or marriage to either the mayor or any member of the legislative council of the consolidated local government. The first members of the board shall be appointed within thirty (30) days of the effective date of the ordinance creating a consolidated local government police force merit system and merit board. One (1) member of the board shall be appointed for a term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) years, and one (1) for a term of four (4) years. Thereafter, all appointments shall be for four (4) years except that an appointment to fill a vacancy on the board shall be made only for the unexpired term of the vacated position. Any board member may be removed by resolution of the legislative council of the consolidated local government for neglect, incapacity, misfeasance, or malfeasance on the part of a board member. No appointed board member shall hold any other public office, elective or appointive, during his or her term as a member of the board, and shall not receive any money, gift, or consideration of any type from any person, directly or indirectly, for or on account of any recommendation, proposal, or suggestion bearing upon the business of the board or the consolidated local government police force. Not more than two (2) members shall be members of the same political party.

(2) Each appointee, before entering upon the discharge of his or her duties, shall qualify by subscribing, taking, and filling an oath of office as required by law.

(3) The members of the consolidated local government police forces shall elect for a two (2) year term, two (2) patrol officers of the consolidated police forces with a minimum of five (5) or more years service who shall serve as members of the board for the purpose of deciding discipline cases only, and who may vote in these cases. In case of a vacancy in a position held by a patrol officer, a new election shall be held within sixty (60) days of the date the vacancy occurs and the person elected shall fill the remainder of the original unexpired term.

SECTION 4. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) The board shall meet within thirty (30) days of the creation of the board and the members shall select from among themselves a chairman and vice chairman and adopt such rules, regulations, and by-laws not inconsistent with Sections 1 to 14 of this Act for the necessary operation of the board. In all matters requiring a vote, a majority of the board members present and voting shall determine any questions, provided that at least three (3) board members are present to constitute a quorum.

(2) In cases of discipline, four (4) members of the board shall be present to constitute a quorum, one (1) of which shall be a police officer as defined in subsection (3) of Section 3 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) The board shall meet at least once every two (2) calendar months and minutes of each meeting shall be kept.

(2) The board shall employ a secretary who shall also conduct all examinations, prepare eligible lists, keep all records of the board's business, keep and maintain all minutes of all board meetings, and perform such other duties in connection with the business of the board as may be required. The secretary may be employed on either a part-time or full-time basis, and the secretary shall receive compensation as may be recommended by the board and approved by the legislative council. All orders and minutes of the board shall be signed by the chairman who shall be elected by the board members, and the minutes shall be countersigned by the secretary.

(3) All records and meetings of the board shall comply with KRS 61.805 to 61.884.

SECTION 6. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

Within thirty (30) days after the creation of a merit board under Sections 1 to 14 of this Act, the mayor shall certify to the board the names, rank, rate of pay, and the seniority of every officer on the police force as of the effective date of the ordinance creating the board.

SECTION 7. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) All police officers of whatever rank and title of a consolidated local government police force shall be covered by the provisions of this section, except probationary officers. All officers of a consolidated local government police force on active duty or service as of the effective date of an ordinance creating a consolidated local government police merit system and board, shall be deemed fit and qualified to continue their respective duties of employment on or for the consolidated local government police force without examination or further qualification, except and unless the chief of police shall, within sixty (60) days after the establishment of the board, certify to the board that any officer is physically unfit to continue his or her duties.

(2) All personnel covered by the provisions of this section, except probationary officers, shall be deemed to be permanent employees subject to their ability to satisfactorily perform their respective duties and subject to their good behavior.

(3) A probationary officer shall not be included in the merit system until that officer has satisfactorily completed his or her initial probationary period which shall be one (1) year from his or her sworn date. The one (1) year probationary period may be extended for up to six (6) months upon showing of just cause by the chief and approved by the board.

(4) Officers covered by the provisions of Section 2 of this Act and serving promotional probationary periods shall not be deemed excluded from the merit system during the promotional probationary periods.

SECTION 8. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 2, 3, 4, 5, and 10 of this Act shall not apply to the chief of police, assistant chief, and any officers above the rank of captain of the consolidated local government police forces. These officers shall be appointed by the mayor and shall not be considered covered under the employment protections of the merit board, except as provided in subsection (2) of this section.

(2) Any officer originally covered by the provisions of Sections 2, 3, 4 , and 5 of this Act who shall accept an appointment and qualify as chief of police, assistant chief of police, or officer above the rank of captain shall be deemed to have received a leave of absence from the classified service for and during his or her service in either of these respective positions. Should any chief of police, assistant chief of police, or officer above the rank of captain cease to serve in that capacity, he or she shall be restored to the same classification and rank which he or she held prior to the appointment. Any person not covered by the provisions of Sections 2, 3, 4, and 5 of this Act when appointed to the position of chief of police, assistant chief of police, or officer above the rank of captain shall not be deemed to be part of the classified service and shall not be placed in any classification or rank in the classified service when he or she ceases to serve in that position unless he or she goes through the normal qualification and classification procedures required by the board.

SECTION 9. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) No officer covered by the provisions of Sections 1 to 14 of this Act shall directly or indirectly solicit or receive or be in any manner concerned in receiving, soliciting, or publicizing any assessment, gift, subscription, or contribution to or for any political party or candidate for public office.

(2) No person shall use or promise to use his or her personal influence or official authority to secure any appointment or promotion to any position of employment covered by the provisions of Sections 1 to 14 of this Act, as a reward or return for personal or partisan political service. No candidate applying for original appointment or promotion to any position of employment covered by Sections 1 to 14 of this Act shall sign or execute or promise to sign or execute a resignation dated or undated in advance of his or her appointment or promotion. No officer covered by the provisions of Sections 1 to 14 of this Act shall be suspended, laid off, demoted, promoted, fined, disciplined, or threatened, or in any way changed in rank, duty, or compensation for withholding or neglecting to pay or make any contribution of any sort, either in money, goods, services, or anything of value for any political purpose whatsoever.

(3) No examination question on any examination given by the board shall relate to any political or religious opinion, belief, affiliation, or service and no appointment, promotion, demotion, suspension, fine, or removal shall be brought about, effected, affected, or influenced by these opinions, beliefs, affiliations, or services.

(4) No officer covered by the provisions of Sections 1 to 14 of this Act shall foster, promote, or be concerned with any actions involving political or religious controversies or prejudices while in uniform.

(5) Nothing contained in Sections 1 to 14 of this Act shall be so construed as to abridge the rights of any officer with respect to his or her personal opinions, beliefs, and right to vote.

SECTION 10. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) Every consolidated local government police force merit system board created shall make, promulgate, and when necessary, amend rules for the qualifications, original appointment, probation, promotion, demotion, transfer, lay-off, reinstatement, suspension, and removal of the officers covered by Sections 2, 3, 4, and 5 of this Act. No rule or regulation made, promulgated, or amended by any consolidated local government police force merit system board shall be inconsistent with the express provisions of this chapter. The board shall publish its rules and any amendments and shall supply certified copies to the mayor, legislative council, and the police chief, and shall post a copy conspicuously in the office or place where the headquarters of the consolidated local government police is maintained. The copies of the rules and amendments shall be distributed and posted in the manner prescribed within three (3) days after adoption.

(2) The rules in addition to other matters shall specifically provide for and cover the following:

- *(a) Physical, mental, educational, citizenship, and age requirements for new officers;*
- *(b) Physical, mental, educational, citizenship, age, and length of service requirements for promotion from lower to higher rank or classification;*
- *(c) A requirement that patrol officers have five (5) years of service as patrol officers before being eligible for promotion to the rank of sergeant;*
- *(d) Provision for open, competitive, written, oral, and physical examinations to determine the relative fitness of all*

candidates for original appointment and for promotion;

(e) A requirement of public notice of all examinations to be given by the merit board;

(f) Organization and meetings of the board; and

(g) Procedure and conduct of public hearings.

(3) The board shall employ a chief examiner who shall be professionally qualified and experienced in the field of testing and who shall formulate, give, grade, and administer all written tests as required by the board. The chief examiner shall report to the board the results of all tests given by him or her and the examiners shall be solely responsible to the board. The chief examiner shall compile the grades of all applicants in strict compliance with procedures and percentages as set out in this section and shall deliver the scores of all applicants for promotion to the chairman of the board, in a sealed envelope. The chief examiner shall not reveal to anyone the results of test scores for promotions other than in this manner.

(4) Physical fitness for promotion shall be presumed unless certified to the contrary by the chief of police who shall supply the board with medical records of the disability.

(5) At least ninety (90) days notice shall be given before a promotional examination is conducted.

(6) Promotional tests shall be graded, as determined by the board, to include both written and oral examination scores. In addition, seniority in grade, not to exceed ten percent (10%), shall be awarded for each year of service after five (5) full years of service. The results of the written and oral examinations shall be combined to determine the applicant's final evaluated rating.

(7) Promotional eligibility lists shall contain the names of successful candidates in the order of their standing through examination.

(8) An applicant may file with the board a written challenge to the applicant's score on the written or oral examination within ten (10) days of notification of examination scores. The board shall make examination questions and answers available for inspection by the applicant upon the filing of a written challenge.

(9) In filling promotional vacancies, the chief of police shall select from not more than five (5) candidates graded highest on the appropriate eligibility list. The board shall determine the justification for not promoting a candidate who has been certified for promotion four (4) times. If the board determines that the candidate's nonpromotion is unjustified or unsupported by the evidence, the candidate shall be promoted. The certified rank list for promotions shall be valid for two (2) years and shall not be extended. All promotional vacancies shall be filled within sixty (60) days of the vacancy.

SECTION 11. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) Any officer may be removed, suspended for a period not to exceed sixty (60) days, laid off, or reduced in grade by the chief for any cause which promotes the efficiency of the services, but before any such action is taken by the chief against any officer, the chief shall furnish the officer concerned with a written statement of the reasons why the described action is being taken. The officer may be reduced, removed, suspended for a period not to exceed sixty (60) days, or laid off from the date the written statement of reasons is served upon her or him. Each officer removed, suspended for a period not to exceed sixty (60) days, laid off, or reduced in grade shall be allowed a period of ten (10) days within which the officer may file a written answer to the charges and the reasons which caused her or his suspension, removal, or reduction. This answer shall be made a part of the official records of the police department. No trial or examination of witnesses shall be required in any such case except at the discretion of the chief. The chief shall likewise furnish a copy of the written charges and reasons for her or his action to the board.

(2) Any citizen who makes written, sworn charges of misconduct concerning the actions of any police officer shall present the charges to the chief of police who shall investigate the charges. The chief of police shall determine what action, if any, shall be taken against the officer, subject to the limitations set out in this chapter. The citizen may appeal the determination of the chief of police to the board.

SECTION 12. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

In all cases provided for in Section 11 of this Act, the action of the chief shall be final except in the following cases:

(1) Every action in the nature of a dismissal, suspension, or reduction made by the chief, shall be subject to review by the board at the request of any officer affected by Sections 1 to 14 of this Act, and the board shall give notice and hold a public hearing. After the public hearing, the board shall retire in executive session to discuss the evidence introduced at the hearing and to make its determination and conclusion. While in executive session, the board shall not receive any further evidence or communication from any source prior to reaching its determination and conclusion. The board, while in executive session, may request and receive legal advice from board counsel on specific legal issues which may arise during deliberations. If a majority of the members of the board are of the opinion that the action of the chief is unjustified or unsupported by proper evidence, the order of the chief may be set aside and revoked by the board and the board may impose the penalty or punishment it deems necessary and appropriate, if any, provided however, the board shall not impose a penalty or punishment in excess of the action of the chief. No officer shall be removed or dismissed except as provided for in this section.

(2) (a) Every action of a dismissal, suspension, or reduction made by the board shall be final, except that any person aggrieved may, within thirty (30) days after the action, appeal to the Circuit Court of the county in which the

board meets. The board shall be named respondent as the consolidated local government police force merit board, and service shall be had on the chairman of the board. The appeal taken to the Circuit Court shall be docketed by the clerk as a civil action and shall be tried anew, as if no action had been rendered by the board.

(b) The judgment of the Circuit Court shall be subject to appeal to the Court of Appeals. The procedure as to the appeal to the Court of Appeals shall be the same as in any civil action.

SECTION 13. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

Procedural due process shall be afforded to any police officer brought before the board. The officer shall be given a prompt hearing by the board, have an opportunity to confront his or her accusers, and have the privilege of presenting the board with evidence. The board shall have the power to issue subpoenas attested in the name of its chairman, to compel the attendance of witnesses, to compel the production of documents and other documentary evidence, and so far as practicable, conduct the hearing within the Kentucky Rules of Civil Procedure. Upon a showing of proper need, the board shall issue subpoenas to compel the attendance of witnesses, or to compel the production of documents and other documentary evidence for the benefits of the officer or the chief at the request of the officer or the chief. Any officer not given a hearing within sixty (60) days of being charged shall be reinstated in full.

SECTION 14. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

Upon the establishment of a consolidated local government, the existing promotional lists of the merit and civil service boards of the previously existing county and city of the first class governments shall remain in effect until their normal expiration date.

HB 854, AN ACT relating to sewerage collection and treatment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 70 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) In order to protect the public health and general welfare of citizens in the Commonwealth the General Assembly finds that all sources of sewage must be connected to an approved, functioning, on-site sewer collection and treatment facility or a public sewer system, if a public sewer system is available.

(2) From the effective date of this Act, it shall be unlawful for any person owning an occupied building within the Commonwealth to construct, install, use, or maintain any straight pipe, cesspool, sinkhole, or other receptacle for the purpose of discharging from or receiving sewage on the premises, and the construction, installation, use, or maintenance of any straight pipe, cesspool, sinkhole, or other receptacle for receiving sewage on the premises within the Commonwealth shall be deemed a public nuisance, unlawful, and an owner of such facility shall be subject to the penalties set out in subsection (14) of Section 8 of this Act.

SECTION 2. A NEW SECTION OF SUBCHAPTER 70 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) From the effective date of this Act, owners of properties that do not have access to a public sewer system shall connect or have connected any and all newly constructed or substantially renovated occupied buildings to an approved on-site waste water or sewer disposal system. The type, capacity, location and layout of such on-site waste-water or sewer systems shall comply with provisions of the respective local county health department and other applicable local and state law, ordinances and administrative regulations, including KRS 211.350, relating to certification of an approved on-site sewer system and the provisions of this chapter relating to the permit requirements of the Kentucky Pollutant Discharge Elimination System.

(2) The property owner shall operate and maintain the on-site sewer disposal system in a sanitary and lawfully functioning manner at all times. Discharge of septic tank effluent or effluent of any other approved sewage disposal system to any open drain, ditch, stream, or a well penetrating water-bearing formation, is prohibited, with the exception that holders of current permits issued under provisions of this chapter and the Kentucky Pollutant Discharge Elimination System may discharge at permitted discharge points provided they are in compliance with the issuing authority.

(3) The provisions of this section shall not be construed to interfere with any other provisions of applicable local or state law.

SECTION 3. A NEW SECTION OF SUBCHAPTER 70 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Persons owning property upon which there is an existing, occupied building that is accessible to, or becomes accessible to, a public sewer system shall at the owner's expense make a sewer connection to the public sewer system in accordance with the provisions of this section and other applicable state and local law.

(2) The sewer connection shall be made within three hundred sixty (360) days of the effective date of this Act for existing, occupied buildings where a public sewer system is available.

(3) Property owner's premises are herein deemed to be accessible to a public sewer if the sewer line is located within reasonable proximity to the property's boundaries as determined by the public sewer system's project engineer, who

shall take into consideration engineering feasibility and costs.

(4) The property owner shall be responsible for making the connection between the sewer system and the occupied structure and the sewer line material and manner of connection shall comply with requirements governing the system.

SECTION 4. A NEW SECTION OF SUBCHAPTER 70 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Persons owning property that is accessible to a public sewer system, and upon which a building intended for occupancy is subsequently erected shall, at the time of construction, and at their own expense, make a sewer service connection to the public sewer system in accordance with the provisions of this section and other provisions of state law and local ordinances.

(2) A property owner's premises are herein deemed to be accessible to a public sewer if the sewer line is located within reasonable proximity of the property's boundary as determined by the public sewer system's project engineer, and taking into consideration engineering feasibility and costs.

(3) A property owner's sewer line material and manner of connection shall comply with requirements governing the system as established by ordinance.

(4) Failure to connect to a public sewer system within ninety (90) days of availability of sewer system service, in accordance with the provisions of this section, is unlawful and subject to the penalties established in subsection (14) of Section 8 of this Act.

SECTION 5. A NEW SECTION OF SUBCHAPTER 70 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

After a property has become served by a specific public sewer system and a connection has been made to that system, an owner may not remove, disconnect, or otherwise interrupt the flow of sewage to that system for the purpose of constructing or installing an alternative on-site treatment system or connecting to another sewer system, unless directed to do so by the county health department or the cabinet

SECTION 6. A NEW SECTION OF SUBCHAPTER 70 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Persons owning property in the Commonwealth on which there is an existing, occupied building, which is accessible to a public sewer system, or any person owning an occupied building on premises which becomes accessible to a public sewer system, may apply for a waiver of service if they can document the presence of a permitted, functioning septic tank, wetlands, or system approved by a county health department or permitted by the cabinet and which has been installed within one hundred twenty (120) months from the date of sewer service availability. Such persons must provide documentation from the health department that the operating system is permitted and functioning, and subsequent to the provision of satisfactory documentation these persons shall receive a one-time waiver for the site or sites until the on-site system fails at which time the permit for it shall be revoked. Once the operating system fails and the permit is denied or revoked, these persons must comply in full with the provisions of local ordinances regulating the public sewer system and Section 3 of this Act, and no other waiver will be provided.

SECTION 7. A NEW SECTION OF SUBCHAPTER 70 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The discharge of storm water runoff or other surface water into a public sewer system is hereby prohibited.

(2) All persons proposing to connect to the public sewer system shall provide adequate means for excluding storm waste runoff such as from roof drains or foundation drains, or other surface waters from being discharged into the sewer system.

(3) Subsequent to connecting to a sewer it shall be unlawful to connect any roof drain or foundation drain thereto or permit any such drains to remain connected thereto, or to permit, allow or cause to enter into any public sewer any other surface waste from any other source.

Section 8. KRS 224.99-010 is amended to read as follows:

(1) Any person who violates KRS 224.10-110(2) or (3), 224.70-110, 224.73-120, 224.20-050, 224.20-110, 224.46-580, 224.01-400, or who fails to perform any duties imposed by these sections, or who violates any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars ($25,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any violations as hereinafter provided in this section and KRS 224.99-020.

(2) Any person who violates KRS 224.10-110(4) or (5), or KRS 224.40-100, 224.40-305, or any provision of this chapter relating to noise, or who fails to perform any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of five thousand dollars ($5,000) for said violation and an additional civil penalty not to exceed five thousand dollars ($5,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any violations as hereinafter provided in this section and KRS 224.99-020.

(3) (a) Any person who shall knowingly violate any of the provisions of this chapter relating to noise or any determination

or order of the cabinet promulgated pursuant to those sections which have become final shall be guilty of a Class A misdemeanor. Each day upon which the violation occurs shall constitute a separate violation.

(b) For offenses by motor vehicles, a person shall be guilty of a violation.

(4) Any person who knowingly violates KRS 224.70-110, 224.73-120, 224.40-100, 224.20-110, 224.20-050, 224.40-305, or 224.10-110(2) or (3), or any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant to those sections which have become final, or who knowingly provides false information in any document filed or required to be maintained under this chapter, or who knowingly renders inaccurate any monitoring device or method, or who tampers with a water supply, water purification plant, or water distribution system so as to knowingly endanger human life, shall be guilty of a Class D felony, and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars ($25,000), or by imprisonment for a term of not less than one (1) year and not more than five (5) years, or by both fine and imprisonment, for each separate violation. Each day upon which a violation occurs shall constitute a separate violation.

(5) If any person engages in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of the hazardous waste management provisions of this chapter or contrary to a permit, order, or rule issued or promulgated under this chapter, or fails to provide information or to meet reporting requirements required by terms and conditions of a permit or administrative regulations promulgated pursuant to this chapter, the secretary may issue an order requiring compliance within a specified time period or may commence a civil action in a court of appropriate jurisdiction. The violator shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars ($25,000) for each day during which the violation continues, and in addition, may be enjoined from any violations in a court of appropriate jurisdiction.

(6) Any person who knowingly is engaged in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of this chapter or contrary to a permit, order, or administrative regulation issued or promulgated under this chapter, or knowingly makes a false statement, representation, or certification in an application for or form pertaining to a permit or in a notice or report required by the terms and conditions of an issued permit, shall be guilty of a Class D felony, and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars ($25,000) for each day of violation, or by imprisonment for a term of not less than one (1) year and not more than five (5) years, or by both fine and imprisonment, for each separate violation. Each day upon which a violation occurs shall constitute a separate violation.

(7) Nothing contained in subsections (4) or (5) of this section shall abridge the right of any person to recover actual compensatory damages resulting from any violation.

(8) Any person who violates any provision of this chapter to which no express penalty provision applies, except as provided in KRS 211.995, or who fails to perform any duties imposed by those sections, or who violates any determination or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty not to exceed one thousand dollars ($1,000) for each day during which the violation continues, and in addition, may be concurrently enjoined from any violations as hereinafter provided in this section and KRS 224.99-020.

(9) The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil, criminal, and injunctive actions instituted by the cabinet or by the Attorney General on its behalf for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto.

(10) Any person who deposits leaves, clippings, prunings, garden refuse, or household waste materials in any litter receptacle, except with permission of the owner of the receptacle, or who places litter into a receptacle in such a manner that the litter may be carried away or deposited by the elements upon any property or water not owned by him is guilty of a Class B misdemeanor.

(11) In addition to or in lieu of the penalties set forth in this section or in KRS Chapters 532 and 534, any person found guilty of a second or subsequent offense related to littering may be ordered by the court to pick up litter for not less than four (4) hours.

(12) Any person who violates KRS 224.20-300, 224.20-310, any other provision of this chapter, or any determination, permit, administrative regulation, or order of the cabinet relating to the Asbestos Hazard Emergency Response Act of 1986 (AHERA), Public Law 99-519, as amended, shall be liable to the Commonwealth of Kentucky for a civil penalty in an amount not to exceed twenty-five thousand dollars ($25,000) for each violation. Each day a violation continues shall, for purposes of this subsection, constitute a separate violation of provisions of this chapter relating to AHERA.

(13) A violation of KRS 224.50-413 shall be subject to a fifty dollar ($50) fine for each day the violation continues.

(14) A violation of the provisions of Sections 1 to 7 of this Act, or the failure or refusal to comply with their provisions, shall be punishable by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500) for each offense, and each day of violation or failure or refusal to comply shall constitute a separate offense.

The Committee Amendment No. 1 to **HB 854** is as follows:

On p. 1, after the Title, by inserting:

"WHEREAS, in order to protect the public health and general welfare of citizens in the Commonwealth the General Assembly finds that all sources of sewage must be connected to an approved, functioning, on-site sewer collection and treatment facility or a public sewer system, if a public sewer system is available; and

WHEREAS, it is unlawful for any person owning an occupied building within the Commonwealth to construct, install, use, or maintain any straight pipe, cesspool, sinkhole, or other receptacle for the purpose of discharging from or receiving sewage on the premises, and the construction, installation, use, or maintenance of any straight pipe, cesspool, sinkhole, or other receptacle for receiving sewage on the premises within the Commonwealth is a public nuisance, unlawful, and an owner of such facility is subject to penalties;

NOW THEREFORE,"; and

On p. 1, line 1 by deleting all text from the beginning of line 1 to the end of line 14; and

By renumbering all subsequent sections; and

On p. 2, line 6, by inserting after "***prohibited***" the words "***and a violation of KRS 224.70-110***".; and

On p. 3, line 17, by deleting "***and subject to the penalties established in subsection (14) of Section 8***"; and

On p. 3, line 18, by deleting "***of this Act***"; and

On p. 4, line 13 by deleting "***3***" and inserting "***2***" in lieu thereof; and

By deleting all text from the beginning of line 27 on page 4 through the end of line 13 on p. 8.

SB 66, AN ACT relating to the merger of volunteer fire departments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

(1) If two (2) or more volunteer fire departments merge after January 1, 2000, and each is qualified to receive the volunteer fire department aid under Section 2 of this Act at the time of merger, then the volunteer fire department aid shall be disbursed according to the provisions of this subsection as long as the resulting department remains qualified to receive the volunteer fire department aid.

(a) The Commission on Fire Protection Personnel Standards and Education shall, at the next regular disbursal date after merger, pay to the resulting merged department, for each of the three (3) years after the merger, one (1) share of the amount of volunteer fire department aid allotted in subsection (2) of Section 2 of this Act for each volunteer fire department merging and receiving the volunteer fire department aid at the time of merger; and

(b) The Commission on Fire Protection Personnel Standards and Education shall pay each year to the merged department for the fourth, fifth, and sixth years after the merger fifty percent (50%) of the annual disbursement paid to the department in paragraph (a) of this subsection, plus one (1) yearly disbursal of four thousand dollars ($4,000) as a merger incentive, as long as the department remains qualified; and

(c) The Commission on Fire Protection Personnel Standards and Education shall pay to the merged volunteer fire department on the seventh year after the merger one (1) share of the amount of volunteer fire department aid allotted in subsection (2) of Section 2 of this Act, plus one (1) disbursal of four thousand dollars ($4,000) as a merger incentive, if the department is qualified; and

(d) The Commission on Fire Protection Personnel Standards and Education shall on the eighth year after the merger pay each year to the merged volunteer fire department only one (1) share of the amount of volunteer fire department aid as allotted in subsection (2) of Section 2 of this Act as long as the merged volunteer fire department is qualified.

(2) The volunteer fire department shall notify the Commission on Fire Protection Personnel Standards and Education, in writing, within thirty (30) days of the merger or splitting of a merged volunteer fire department. Notification shall be

made in the manner prescribed by the Commission on Fire Protection Personnel Standards and Education in administrative regulations promulgated in accordance with the provisions of KRS Chapter 13A.

(3) The Commission on Fire Protection Personnel Standards and Education shall calculate and disburse to each department merged after January 1, 2000, but before the effective date of this Act, any payments owed the department according to the schedule set out in this section. In order to receive the payment, the volunteer fire department shall notify the commission in writing within sixty (60) days of the effective date of this Act that there has been a merger within that time. If sufficient funds do not exist to make a lump-sum payment at one (1) time owed under the provisions of this subsection, then the available amount shall be prorated evenly and proportionately and disbursed among those merged departments each disbursal cycle until the total amount has been paid to each of those departments in the most expedient, fiscally responsible time. The commission shall not reduce any other payments under Section 2 of this Act to make the payments under this subsection.

(4) If a new volunteer fire department is created from territory in an existing volunteer fire department merged under the provisions of this section, then neither department shall receive the four thousand dollar ($4,000) merger incentive, if receiving it at the time of the creation, at the time of the next disbursal. At the time of the next disbursal, the parent volunteer fire department shall receive one (1) less share of the volunteer aid fund provided in Section 2 of this Act, if qualified. In no event shall a qualified fire department receive less than one (1) share, minus any forfeiture from unsatisfactory participation in the fire incident reporting system. The newly created volunteer fire district shall be able to receive one (1) share at the next regular disbursal date, if qualified.

(5) If the resulting merged department becomes unqualified to receive the volunteer fire department aid for six (6) or more consecutive months, then when again qualified, the merged department shall only be entitled to one (1) share of the volunteer fire department aid if it is receiving more than one (1) share, and shall no longer receive the four thousand dollar ($4,000) merger incentive if eligible to receive it.

Section 2. KRS 95A.262 is amended to read as follows:

(1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for Health Services, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190. Any fire department which has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for Human Resources for hepatitis B inoculations.

(2) Except as provided in subsection (3) of this section and KRS 61.316, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273. The commission shall allot eight thousand dollars ($8,000) annually to each qualifying department, and beginning on July 1, 2001, the commission shall allot eight thousand two hundred fifty dollars ($8,250) annually to each qualifying department. Any qualifying department which fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars ($500) of its allotment. *If two (2) or more volunteer fire protection districts created under the provisions of KRS Chapter 75 merge under the provisions of Section 3 of this Act after January 1, 2000, or if two (2) or more volunteer fire departments in cities of all classes, or volunteer fire departments created under the provisions of KRS Chapters 67 or 273 merge after January 1, 2000, then the allotment shall be in accordance with the provisions of Section 1 of this Act.* The commission shall recommend to the commissioner of the Department of Housing, Buildings and Construction the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A to define satisfactory participation in the Kentucky fire incident reporting system. Administrative regulations for determining qualifications shall be based on the number of both paid firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. A qualifying department shall include at least twelve (12) firefighters, a chief, and at least one (1) operational fire apparatus or one (1) on order. Fifty percent (50%) of the firefighters shall have completed at least one-half (1/2) of one hundred fifty (150) training hours toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours within the second year. These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations. No allotment shall exceed the total value of the funds, equipment, lands, and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and shall be used to purchase workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.

(3) There shall be allotted two hundred thousand dollars ($200,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the

biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars ($200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and Education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

(4) Applications for funding low-interest loans and firefighters' training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

(5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.

(6) Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.

(7) The amount of reimbursement for any given year for costs incurred by the Kentucky Community and Technical College System for administering these funds, including, but not limited to, the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.

(8) The commission shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.

(9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:

(a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;

(b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;

(c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;

(d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;

(e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;

(f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and

(g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.

(10) If a volunteer fire department has met all of the requirements of subsection (9) of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars ($10,000) or the actual amount of the loss, whichever is less.

(11) Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.

(12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.

(13) The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.

(14) There shall be allotted each year of the 1992-93 biennium one million dollars ($1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars ($1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues from principal and interest payments. The commission, in accordance with the procedures in subsection (4) of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments which achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and which do not have other sources of funds at rates which are favorable given their financial resources. The proceeds of loan payments shall be returned to the loan fund for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission may withhold any

grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of the fund.

Section 3. KRS 75.020 is amended to read as follows:

(1) The territorial limits of an established fire protection district, or a volunteer fire department district, as established under KRS 75.010 to 75.080, may be enlarged or diminished in the following way: The trustees of the fire protection district or of the volunteer fire department district shall file a petition in the county clerk's office of the county in which that district and the territory to be annexed or stricken off, or the greater part thereof, is located, describing the territory to be annexed or stricken and setting out the reasons therefor. Notice of the filing of such petition shall be given by publication as provided for in KRS Chapter 424. On the day fixed in the notice, the county judge/executive shall, if the proper notice has been given, and the publication made, and no written objection or remonstrance is interposed enter an order annexing or striking off the territory described in the petition. Fifty-one percent (51%) or more of the freeholders of the territory sought to be annexed or stricken off may, at any time before the date fixed in the notice, remonstrate in writing, filed in the clerk's office, to the action proposed. If such written remonstrance be filed said clerk shall promptly give notice to the trustees of the fire protection district, or of the volunteer fire department district, and the county judge/executive shall hear and determine the same. If upon such hearing, the county judge/executive finds from the evidence that a failure to annex or strike off such territory will materially retard the functioning of the fire protection district or the volunteer fire department district and materially affect adversely the owners and the inhabitants of the territory sought to be annexed or stricken off, he shall enter an order, granting the annexation or striking off the territory. In the latter event, no new petition to annex or strike off all or any part of the same territory shall be entertained for a period of two (2) years. Any aggrieved person may bring an action in Circuit Court to contest the decision of the county judge/executive.

(2) The property in any territory annexed to a fire protection district or to a volunteer fire department district shall not be liable to taxation for the purpose of paying any indebtedness incurred by the fire protection district or the volunteer fire department district prior to the date of the annexation of such territory, except such indebtedness as represents balance owing on purchase price of firefighting equipment. The property in any territory stricken off from a fire protection district or a volunteer fire department district by the incorporation of or annexation by a city of this Commonwealth shall not be relieved of liability of such taxes as may be necessary to pay its proportionate share of the indebtedness incurred while such territory was a part of that district. Territories stricken by action of the county judge/executive under the provisions of subsection (1) shall be relieved of liability for all indebtedness incurred by the fire protection district or the volunteer fire department district.

(3) Any city that maintains a "regular fire department," and has either by incorporation or annexation caused property to be stricken from a fire protection district or a volunteer fire department district, shall assume the liability of such taxes as may be necessary to pay the proportional share of the indebtedness incurred while such territory was a part of said district.

(4) The territorial limits of two (2) or more fire protection districts, or volunteer fire department districts, as established by KRS 75.010 to 75.080, may be merged into one (1) fire protection district or volunteer fire department district as follows:

(a) The trustees of each fire protection district or volunteer fire department district shall file a joint petition in the county clerk's office of the county in which all of the districts and the territory to be merged into one (1) district, or the greater part of the district, is located, describing the territory to be merged into the district and setting out the reasons for the merger;

(b) Notice of the filing of the petition shall be given by publication as provided in KRS Chapter 424 for public notices;

(c) On the day fixed in the notice, the county judge/executive shall, if proper notice by publication has been given, and no written objection or remonstrance has been made, enter an order merging the fire protection districts or volunteer fire department districts described in the petition;

(d) Fifty-one percent (51%) or more of the property owners of the territory sought to be merged into one (1) district may, at any time before the date fixed in the notice, remonstrate by written petition to the county clerk regarding their objection to the merger of the districts. If a petition is filed, the county clerk shall give prompt notice to the trustees of the fire protection districts or the volunteer fire protection districts and the county judge/executive;

(e) The county judge/executive shall schedule a hearing regarding the petition and shall give public notice as to the date, time, and place of the hearing. If after the hearing, the county judge/executive finds from the evidence that a failure to merge the territory will materially retard the functioning of the fire protection districts or volunteer fire department districts and materially affect adversely the owners and the inhabitants of the territory sought to be merged, he shall enter an order granting the merger of the districts into one (1) fire protection district or volunteer fire department district;

(f) If a merger of districts occurs, no new petition to merge or change the territorial boundaries of the newly-merged district shall be attempted for a period of two (2) years; and

(g) Any aggrieved person may bring an action in Circuit Court to contest the decision of the county judge/executive regarding the merger fire protection districts or volunteer fire department districts.

(5) The property in any fire protection district or volunteer fire department district which is merged with another fire protection district or volunteer fire department district shall not be liable to taxation for the purpose of paying any indebtedness incurred by the other fire protection district or volunteer fire department district prior to the date of the merger into one (1) fire protection district, except indebtedness which represents a balance owed on the purchase price of firefighting equipment from the other fire protection district or volunteer fire department district.

(6) If two (2) or more volunteer fire department districts merge under the provisions of this section, then they shall be entitled to the volunteer fire department aid schedule and merger incentive as provided for in Section 1 of this Act.

The Committee Substitute to **SB 66** is as follows:

SB 66, AN ACT relating to the merger of volunteer fire departments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

If two (2) or more volunteer fire departments merge under the provisions of Sections 1 to 7 of this Act after January 1, 2000, and each is qualified to receive the volunteer fire department aid under subsection (2) of Section 8 of this Act at the time of merger, then the volunteer fire department aid shall be disbursed according to the provisions of Sections 1 to 7 of this Act as long as the resulting district remains qualified to receive the volunteer fire department aid.

SECTION 2. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 of this Act, unless the context requires otherwise:

(1) "Qualified fire department" means any volunteer fire department in any city of any class, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273 eligible to receive volunteer fire department aid under subsection (2) of Section 8 of this Act; and

(2) "Qualified share" means the amount of money allocated by the Commission on Fire Protection Personnel Standards and Education for volunteer fire department aid under subsection (2) of Section 8 of this Act, less any penalties for failure to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380.

SECTION 3. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

(1) The Commission on Fire Protection Personnel Standards and Education shall pay to the merged district, for the first, second, and third years after the merger, the number of qualified shares of volunteer fire department aid allotted under subsection (2) of Section 8 of this Act equal to the total number of qualified shares that each department would have received previous to merger;

(2) The Commission on Fire Protection Personnel Standards and Education shall pay to the merged district, for the fourth, fifth, and sixth years after the merger, the number of qualified shares of volunteer fire department aid allotted under subsection (2) of Section 8 of this Act equal to fifty percent (50%) of the total number of qualified shares that each department would have received previous to merger, plus one (1) yearly disbursal of four thousand dollars ($4,000) as a merger incentive; and

(3) The Commission on Fire Protection Personnel Standards and Education shall pay to the merged district, for the seventh year after the merger and thereafter, one (1) qualified share of volunteer fire department aid allotted under subsection (2) of Section 8 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

The trustees of the volunteer fire district shall notify the Commission on Fire Protection Personnel Standards and Education, in writing, within thirty (30) days of the merger or splitting of a merged volunteer fire district created under the provisions of this chapter. Notification shall be made in the manner prescribed by the Commission on Fire Protection Personnel Standards and Education in administrative regulations promulgated in accordance with the provisions of KRS Chapter 13A.

SECTION 5. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

If a new volunteer fire department is created from territory in an existing fire department merged under the provisions of Sections 1 to 7 of this Act, the newly created volunteer fire district shall be able to receive one (1) share at the next regular disbursal date, if qualified. The parent fire department shall have aid allotted under subsection (2) of Section 8 of this Act reduced by one (1) qualified share for calculations of aid, for the first, second, third, fourth, fifth, and sixth years after merger.

SECTION 6. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

The Commission on Fire Protection Personnel Standards and Education shall calculate and disburse to each district merged after January 1, 2000, but before the effective date of this Act, any payments owed the district according to the schedule set out in this section. In order to receive the payment, the trustees of the volunteer fire district shall notify the commission in writing within sixty (60) days of the effective date of this Act that there has been a merger in their jurisdiction within that time. If sufficient funds do not exist to make all the payments at one (1) time owed under the provisions of this subsection, then the available amount shall be prorated evenly and proportionately and disbursed among those merged districts each disbursal

cycle until the total amount has been paid to each of those districts. The commission shall not reduce any other payments under KRS 95A.262 to make the payments under this subsection.

SECTION 7. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

If the resulting merged district does not remain qualified to receive the volunteer fire department aid under subsection (2) of Section 8 of this Act, then the Commission on Fire Protection Personnel Standards and Education shall suspend all payments calculated under Section 3 of this Act. The merged district shall have ninety (90) days to come into compliance with the requirements for qualification. If the merged district does so, then the commission shall resume payments as calculated under Section 3 of this Act. If the merged district does not come into compliance within ninety (90) days of the loss of qualification, then the commission shall not resume payments as calculated under Section 3 of this Act. Should the merged district come into compliance after ninety (90) days, it shall receive only one (1) qualified share of the volunteer fire department aid under subsection (2) of Section 8 of this Act.

Section 8. KRS 95A.262 is amended to read as follows:

(1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for Health Services, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190. Any fire department which has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for Human Resources for hepatitis B inoculations.

(2) Except as provided in subsection (3) of this section and KRS 61.316, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273. The commission shall allot eight thousand dollars ($8,000) annually to each qualifying department, and beginning on July 1, 2001, the commission shall allot eight thousand two hundred fifty dollars ($8,250) annually to each qualifying department. Any qualifying department which fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars ($500) of its allotment. ***If two (2) or more qualified volunteer fire departments, as defined in Sections 1 to 7 of this Act, merge after January 1, 2000, then the allotment shall be in accordance with the provisions of Sections 1 to 7 of this Act.*** The commission shall recommend to the commissioner of the Department of Housing, Buildings and Construction the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A to define satisfactory participation in the Kentucky fire incident reporting system. Administrative regulations for determining qualifications shall be based on the number of both paid firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. A qualifying department shall include at least twelve (12) firefighters, a chief, and at least one (1) operational fire apparatus or one (1) on order. Fifty percent (50%) of the firefighters shall have completed at least one-half (1/2) of one hundred fifty (150) training hours toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours within the second year. These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations. No allotment shall exceed the total value of the funds, equipment, lands, and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and shall be used to purchase workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.

(3) There shall be allotted two hundred thousand dollars ($200,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars ($200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and Education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

(4) Applications for funding low-interest loans and firefighters' training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

(5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.

(6) Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.

(7) The amount of reimbursement for any given year for costs incurred by the Kentucky Community and Technical College System for administering these funds, including, but not limited to, the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.

(8) The commission shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.

(9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:

- (a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;
- (b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;
- (c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;
- (d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;
- (e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;
- (f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and
- (g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.

(10) If a volunteer fire department has met all of the requirements of subsection (9) of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars ($10,000) or the actual amount of the loss, whichever is less.

(11) Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.

(12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.

(13) The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.

(14) There shall be allotted each year of the 1992-93 biennium one million dollars ($1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars ($1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues from principal and interest payments. The commission, in accordance with the procedures in subsection (4) of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments which achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and which do not have other sources of funds at rates which are favorable given their financial resources. The proceeds of loan payments shall be returned to the loan fund for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of the fund.

SB 101, AN ACT relating to death benefits for police and firefighters in cities of the second class and cities of the third class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.570 is amended to read as follows:

(1) When an active or retired member of the police or fire department, in cities of the third class, dies under the conditions set out in paragraph (c) of subsection (1) of KRS 95.550, the board of trustees of the pension fund may pay from the fund to the widow, widower or family a sum of not more than ***ten thousand dollars ($10,000)***[~~two hundred dollars ($200)~~], for ***a***

death benefit[~~funeral expenses~~].

(2) The board of trustees of a pension fund may purchase group life insurance to assist in the provision of funds for the funding of this death benefit.

Section 2. KRS 95.865 is amended to read as follows:

(1) Upon death of a member, occurring while in active service, if no widow's annuity or children's annuities are payable, the designated beneficiary of the member or his estate shall be entitled to a death benefit equal to the total contributions made by the member, including those employee contributions picked up by the employer pursuant to KRS 65.155, without interest, or three hundred dollars ($300), whichever is greater.

(2) Upon death of a retired member, if no widow's annuity or children's annuities shall be due or payable, a death benefit shall be paid to the designated beneficiary or estate of the member, equal to the excess, if any, of the total contributions made by the member to this fund to the date of retirement, including those employee contributions picked up by the employer pursuant to KRS 65.155, without interest, over the total annuity payments received by the member. The minimum payment in such case shall be three hundred dollars ($300). If a widow's annuity or children's annuities are payable after the death of the retired member, the amount of such death benefit, if any, shall be determined upon termination of annuity payments to all survivors of the member, whether such termination occurs by death, remarriage or other cause.

(3) When an active or retired member of the police or fire department, in cities of the second class, is killed or dies as the result of an injury received in the performance of duty, or dies of any disease contracted by reason of his occupation, or dies while in the service from any cause as a result of his service in the department, or dies in the service or while on the retired list from any cause after fifteen (15) consecutive years of service in the department, and leaves a widow, widower, or a child under eighteen (18) years of age, the board of trustees of the pension fund may pay from the fund to the widow, widower, or family a sum of not more than ten thousand dollars ($10,000) for a death benefit. The board of trustees of a pension fund may purchase group life insurance to assist in the provision of funds for the funding of this death benefit.

SB 197, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky General Assembly hereby recognizes and affirms that the protection of property values is a legitimate issue to local governments and the enactment of regulations designed to protect property values is a proper exercise of local government legislative power.

(2) As used in this section, unless the context requires otherwise:

(a) "Compatibility standards" means standards that have been enacted by a local government under the authority of this section for the purpose of protecting and preserving the monetary value of real property located within the local government's jurisdiction;

(b) "Local government" means a city, county, urban-county government, charter county government or consolidated local government that is engaged in planning and zoning under KRS Chapter 100;

(c) "Manufactured home" means a single-family residential dwelling constructed after June 15, 1976, in accordance with the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et. seq., as amended, and designed to be used as a single-family residential dwelling with or without permanent foundation when connected to the required utilities, and which includes the plumbing, heating, air conditioning, and electrical systems contained therein;

(d) "Qualified manufactured home" means a manufactured home that meets all of the following criteria:

1. Is manufactured on or after July 15, 2002;

2. Is affixed to a permanent foundation and is connected to the appropriate facilities and is installed in compliance with KRS 227.570;

3. Has a width of at least twenty (20) feet at its smallest width measurement or is two (2) stories in height and oriented on the lot or parcel so that its main entrance door faces the street;

4. Has a minimum total living area of nine hundred (900) square feet; and

5. Is not located in a manufactured home land-lease community; and

(e) "Permanent foundation" means a system of supports that is: capable of transferring, without failure, into soil or bedrock, the maximum design load imposed by or upon the structure; constructed of concrete; and placed at a depth below grade adequate to prevent frost damage.

(3) Any local government may adopt and enforce, as a part of its zoning regulations, compatibility standards governing the placement of qualified manufactured homes in residential zones within the local government's jurisdiction. Compatibility standards shall be adopted, amended, and enforced in the same manner as other zoning regulations and shall be in addition to any zoning regulations that are generally applicable to single-family residences. The

compatibility standards shall be designed to ensure that when a qualified manufactured home is placed in a residential zone it is compatible, in terms of assessed value, with existing housing located with a one-eighth (1/8) mile or less radius from the proposed location of the qualified manufactured home. The compatibility standards adopted by a local government shall relate to architectural features that have a significant impact on the overall assessed value of the structure, including, for example, but not limited to, features such as: roof pitch; square footage of livable space; type and quality of exterior finishing materials; foundation skirting; and existence and type of attached structures.

(4) No local government shall adopt any zoning regulation that excludes qualified manufactured homes from residential zones as long as the qualified manufactured home complies with all zoning regulations generally applicable to single-family residences, including all compatibility standards that have been enacted by the local government under the provisions of this section.

(5) Nothing in this section shall be construed to affect, modify, or abolish restrictions contained in recorded deeds, covenants, or developers' subdivision restrictions.

(6) Nothing in this section shall be construed as limiting in any way the authority of local governments to adopt regulations designed to protect historic properties or historic districts.

The Committee on Economic Development reported **HB 841,** with Committee Substitute attached thereto, and **SB 134,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 841, AN ACT relating to the regulation of small businesses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

(1) Each department, program cabinet and its departments, and the respective administrative bodies which are included therein that are required to regulate small business entities, which are defined as those having fewer than one hundred (100) permanent full-time employees, and which are granted the authority to assess civil penalties shall, by July 1, 2003, establish a policy or program to provide for the reduction and, under appropriate circumstances, the waiver of civil penalties for violations of a statutory or regulatory requirement by a small business entity.

(2) Subject to the requirements or limitations of other provisions of the Kentucky Revised Statutes, policies or programs established under this section shall contain conditions or exclusions which may include, but shall not be limited to:

(a) Requiring the small business entity to correct the violation within a reasonable correction period;

(b) Limiting the applicability to violations discovered through participation by the small business entity in a compliance assistance or audit program operated or supported by the regulatory body or discovered through any voluntary means or through self-reporting;

(c) Excluding small business entities that have been subject to multiple enforcement actions by the regulatory body;

(d) Excluding violations involving willful or criminal conduct;

(e) Excluding violations that pose serious health, safety or environmental threats; and

(f) Requiring a good faith effort to comply with the law.

(3) Beginning on July 1, 2004, each department and program cabinet that is required to regulate small business entities and has the authority to assess civil penalties shall issue an annual written report to the Administrative Regulation Review Subcommittee and to the Legislative Research Commission that shall contain information concerning the number of enforcement actions against small business entities that qualified or failed to qualify for the program or policy, and the total amount of penalty reductions and waivers.

The Committee Substitute to **HB 841** is as follows:

HB 841, AN ACT relating to the regulation of small businesses.

WHEREAS, the General Assembly finds that small business entities play a critical role in Kentucky's economy; and

WHEREAS, the various departments, program cabinets and their departments, and respective administrative bodies which are included therein regulate various activities of small business entities; and

WHEREAS, the General Assembly seeks to preserve the contribution of small business entities to the Kentucky economy;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

(1) Each department, program cabinet and its departments, and the respective administrative bodies which are included therein that are required to regulate small business entities, which are defined as those having fewer than one hundred (100) permanent full-time employees, and which are granted the authority to assess civil penalties shall, by July 1,

2003, establish a policy or program to, under appropriate circumstances, provide for the reduction or the waiver of civil penalties for violations of a statutory or regulatory requirement by a small business entity. Each department, program cabinet, and its departments, and the respective administrative bodies which are included therein shall provide data and information on existing programs and policies within the respective agencies relating to the regulation of those businesses to the Legislative Research Commission by October 1, 2002.

(2) Subject to the requirements or limitations of other provisions of the Kentucky Revised Statutes, policies or programs established under this section may contain conditions or exclusions as follows:

(a) Requiring the small business entity to correct the violation within a reasonable correction period;

(b) Limiting the applicability to violations discovered through participation by the small business entity in a compliance assistance or audit program operated or supported by the regulatory body or discovered through any voluntary means or through self-reporting;

(c) Excluding small business entities that have been subject to multiple enforcement actions by the regulatory body;

(d) Excluding violations involving willful or criminal conduct;

(e) Excluding violations that pose serious health, safety or environmental threats; and

(f) Requiring a good faith effort to comply with the law.

(3) On July 1, 2004, each department and program cabinet that is required to regulate small business entities and has the authority to assess civil penalties shall issue a written report to the Administrative Regulation Review Subcommittee and to the Legislative Research Commission that shall contain information concerning the number of enforcement actions against small business entities that qualified or failed to qualify for the program or policy, and the total amount of penalty reductions and waivers.

SB 134, AN ACT relating to the Local Industrial Development Authority Act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.50-316 is amended to read as follows:

(1) Any governmental unit by act of its legislative body may establish a nonprofit industrial development authority to be composed of ***not less than*** six (6) ***and not more than eight (8)*** members.

(2) The authority shall be a body politic and corporate with the usual corporate attributes, and in its corporate name may sue and be sued, contract and be contracted with and do all things reasonable or necessary to effectively carry out the duties prescribed by KRS 154.50-301 to 154.50-346.

Section 2. KRS 154.50-326 is amended to read as follows:

(1) The members of the authority shall be appointed as follows:

(a) If the authority is established by a city, the ***members***[~~member~~] shall be appointed by the mayor of the city;

(b) If the authority is established by a county, the ***members***[~~member~~] shall be appointed by the county judge/executive;

(c) If the authority is established as a joint city-county industrial development authority, ***one-half (1/2) of the***[~~three (3)~~] members shall be appointed by the mayor and ***one-half (1/2) of the***[~~three (3)~~] members by the county judge/executive***. If the authority is composed of seven (7) members, the mayor and the county judge/executive shall jointly appoint the seventh member***;

(d) If a combination of cities and/or counties establishes a joint industrial development authority, the mayors and/or county judges/executive involved shall jointly choose ***the***[~~six (6)~~] members, and shall jointly choose successors.

(2) Members of the authority shall serve for a term of four (4) years each, and until their successors are appointed and qualified. ***If the authority is composed of six (6) members,*** initial appointments shall be made so that two (2) members are appointed for two (2) years, two (2) members for three (3) years, and two (2) members for four (4) years. ***If the authority is composed of seven (7) members, initial appointments shall be made so that two (2) members are appointed for two (2) years, two (2) members for three (3) years, and three (3) members for four (4) years. If the authority is composed of eight (8) members, initial appointments shall be made so that two (2) members are appointed for two (2) years, three (3) members for three (3) years, and three (3) members for four (4) years.*** Upon expiration of these staggered terms, successors shall be appointed for a term of four (4) years.

(3) An industrial development authority member may be replaced by the appointing authority upon a showing to the appointing authority of misconduct as an authority member or upon conviction of a felony.

Section 3. KRS 154.50-333 is amended to read as follows:

A quorum for the transacting of the business of the authority shall consist of ***a majority of the***[~~four (4)~~] members. Meetings of the authority may be called by the chairman or by ***a majority of the***[~~four (4)~~] members. In case of tie voting by the authority, the issue shall be deemed to have failed passage.

The Committee on Agriculture and Small Business reported **HB 855,** with Committee Substitute attached thereto, **HJR 210,** with Committee Substitute attached thereto, **HCR 226, SB 13,** with Committee Substitute attached thereto, and **SB 179,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 855, AN ACT relating to the grape and wine industry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Grape and Wine Council, created in Section 4 of this Act to promote and facilitate the development of a grape, grape products, and wine industry, may:

- *(a) Conduct and contract with others to conduct research on grapes, grape products, and wine in Kentucky and elsewhere for use in Kentucky, including but not limited to:*
    - *1. Methods of marketing, market development, and distribution;*
    - *2. Methods of storage, refrigeration, processing, and transportation;*
    - *3. Methods of production and product development;*
    - *4. Methods of agronomic, enological, and viticultural practices to improve these practices in Kentucky; and*
    - *5. Economic benefits and impact from the industry;*
- *(b) Publish and provide and contract with others to publish and provide wholesalers and retailers in the Kentucky grape, grape products, and wine industry with information on proper methods of handling and selling grapes, grape products, and wine;*
- *(c) Publish and provide and contract with others to publish and provide producers of Kentucky grapes, grape products, and wine, as well as the general public, with information relating to Kentucky grapes, grape products, and wine; and*
- *(d) Design and implement or contract with others to design and implement activities relating to Kentucky grapes, grape products, and wine including but not limited to:*
    - *1. Market surveys and analyses;*
    - *2. Industry promotion programs;*
    - *3. Market maintenance and expansion plans;*
    - *4. Education programs;*
    - *5. Public relations programs;*
    - *6. Economic impact analyses; and*
    - *7. Other analysis or research relating to the promotion and sale of Kentucky grapes, grape products, and wine.*

(2) The Kentucky Grape and Wine Council shall:

- *(a) Promote the sale of grapes, grape products, and wine for the purpose of maintaining and expanding present markets and creating new markets for Kentucky grapes, grape products, and wine for the maximum economic impact on the agricultural economy of Kentucky;*
- *(b) Inform the public, producers, and vendors about Kentucky grapes, grape products, and wine, including uses and benefits of these products;*
- *(c) Advise the Commissioner to:*
    - *1. Expend moneys from the Kentucky Grape and Wine Council fund created in Section 3 of this Act to carry out the duties and recommendations of the council; and*
    - *2. Hire staff to carry out the duties and recommendations of the council; and*
    - *3. Promulgate administrative regulations to carry out the duties and recommendations of the council;*
- *(d) Coordinate with the Kentucky Department of Agriculture and other state agencies in carrying out these duties; and*
- *(e) Report annually to the Governor and the General Assembly on the activities of the Kentucky Grape and Wine Council.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

The Commissioner shall, with the advice and recommendation of the council:

(1) Receive and disburse funds from the Kentucky Grape and Wine Council fund created in Section 3 of this Act;

(2) Hire staff to carry out the duties and recommendations of the council;

(3) Promulgate administrative regulations to carry out the duties and recommendations of the council;

(4) Assist in the preparation of the annual report of the council; and

(5) Monitor the activities of the council to ensure timely performance of the duties of the council under Section 1 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

There is established and created in the State Treasury, a fund entitled the "Kentucky Grape and Wine Council fund" to provide funds to offset the costs of the Kentucky Grape and Wine Council. The fund may receive state appropriations, gifts, grants, federal funds, and any other funds both public and private. Money deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the Commissioner of Agriculture or the Commissioner's representative. Any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9), and any income earned from the investments along with the unallotted or unencumbered balances in the fund shall not lapse, and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the Kentucky Grape and Wine Council.

Section 4. KRS 260.165 is amended to read as follows:

(1) The ***Kentucky*** Grape ***and Wine Council***[~~Industry Advisory Committee~~] is hereby created within the Department of Agriculture. The purpose of the ***council***[~~committee~~] shall be to promote and facilitate the development of a grape industry in the Commonwealth of Kentucky.

(2) The ***council***[~~committee~~] shall be composed of the Commissioner of Agriculture, or his designee, and six (6) members appointed by the Governor. Of the six (6) gubernatorial appointments, the Governor is encouraged to appoint one (1) from list of three (3) candidates submitted by the director of the University of Kentucky Agriculture Experiment Station, one (1) from a list of three (3) candidates submitted by the secretary of the Tourism Development Cabinet, and two (2) from a list of three (3) candidates submitted by the Kentucky Vineyard Society.

(3) The appointed members shall serve for terms of four (4) years and until their successors are appointed and qualify. The ***council***[~~committee~~] shall select a chairman and shall meet at the times and places that he designates. Four (4) members present at any meeting shall constitute a quorum. Upon the written request of any three (3) members, the chairman shall call a meeting of the ***council***[~~committee~~] at the time and place requested.

(4) Members shall receive no compensation but shall be reimbursed, payable from the Division of Markets, for any actual expense incurred in performing their duties.

The Committee Substitute to **HB 855** is as follows:

HB 855, AN ACT relating to the grape and wine industry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Grape and Wine Council, created in Section 4 of this Act to promote and facilitate the development of a grape, grape products, and wine industry, may:

(a) Conduct and contract with others to conduct research on grapes, grape products, and wine in Kentucky and elsewhere for use in Kentucky, including but not limited to:

1. Methods of marketing, market development, and distribution;

2. Methods of storage, refrigeration, processing, and transportation;

3. Methods of production and product development;

4. Methods of agronomic, enological, and viticultural practices to improve these practices in Kentucky; and

5. Economic benefits and impact from the industry;

(b) Publish and provide and contract with others to publish and provide wholesalers and retailers in the Kentucky grape, grape products, and wine industry with information on proper methods of handling and selling grapes, grape products, and wine;

(c) Publish and provide and contract with others to publish and provide producers of Kentucky grapes, grape products, and wine, as well as the general public, with information relating to Kentucky grapes, grape products, and wine; and

(d) Design and implement or contract with others to design and implement activities relating to Kentucky grapes, grape products, and wine including but not limited to:

1. Market surveys and analyses;

2. Industry promotion programs;

3. Market maintenance and expansion plans;

4. Education programs;

5. Public relations programs;

6. Economic impact analyses; and

7. Other analysis or research relating to the promotion and sale of Kentucky grapes, grape products, and wine.

(2) The Kentucky Grape and Wine Council, to the extent that funds are available, shall:

(a) Promote the sale of grapes, grape products, and wine for the purpose of maintaining and expanding present markets and creating new markets for Kentucky grapes, grape products, and wine for the maximum economic impact on the agricultural economy of Kentucky;

(b) Inform the public, producers, and vendors about Kentucky grapes, grape products, and wine, including uses and benefits of these products;

(c) Advise the Commissioner to:

1. Expend moneys from the Kentucky Grape and Wine Council fund created in Section 3 of this Act to carry out the duties and recommendations of the council; and

2. Hire staff to carry out the duties and recommendations of the council; and

3. Promulgate administrative regulations to carry out the duties and recommendations of the council;

(d) Coordinate with the Kentucky Department of Agriculture and other state agencies in carrying out these duties; and

(e) Report annually to the Governor and the General Assembly on the activities of the Kentucky Grape and Wine Council.

SECTION 2. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

The Commissioner shall, to the extent that funds are available and with the advice and recommendation of the council:

(1) Receive and disburse funds from the Kentucky Grape and Wine Council fund created in Section 3 of this Act;

(2) Hire staff to carry out the duties and recommendations of the council;

(3) Promulgate administrative regulations to carry out the duties and recommendations of the council;

(4) Assist in the preparation of the annual report of the council; and

(5) Monitor the activities of the council to ensure timely performance of the duties of the council under Section 1 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

There is established and created in the State Treasury, a fund entitled the "Kentucky Grape and Wine Council fund" to provide funds to offset the costs of the Kentucky Grape and Wine Council. The fund may receive state appropriations, gifts, grants, federal funds, and any other funds both public and private. Money deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the Commissioner of Agriculture or the Commissioner's representative. Any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9), and any income earned from the investments along with the unallotted or unencumbered balances in the fund shall not lapse, and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the Kentucky Grape and Wine Council.

Section 4. KRS 260.165 is amended to read as follows:

(1) The *Kentucky* Grape *and Wine Council*[~~Industry Advisory Committee~~] is hereby created within the Department of Agriculture. The purpose of the *council*[~~committee~~] shall be to promote and facilitate the development of a grape industry in the Commonwealth of Kentucky.

(2) The *council*[~~committee~~] shall be composed of the Commissioner of Agriculture, or his designee, and six (6) members appointed by the Governor. Of the six (6) gubernatorial appointments, the Governor is encouraged to appoint one (1) from list of three (3) candidates submitted by the director of the University of Kentucky Agriculture Experiment Station, one (1) from a list of three (3) candidates submitted by the secretary of the Tourism Development Cabinet, and two (2) from a list of three (3) candidates submitted by the Kentucky Vineyard Society.

(3) The appointed members shall serve for terms of four (4) years and until their successors are appointed and qualify. The *council*[~~committee~~] shall select a chairman and shall meet at the times and places that he designates. Four (4) members present at any meeting shall constitute a quorum. Upon the written request of any three (3) members, the chairman shall call a meeting of the *council*[~~committee~~] at the time and place requested.

(4) Members shall receive no compensation but shall be reimbursed, payable from the *Kentucky Grape and Wine Council fund*[~~Division of Markets~~], for any actual *travel* expense incurred *while attending meetings of the council*[~~in performing their duties~~].

HJR 210, A JOINT RESOLUTION authorizing and directing Kentucky State University, in cooperation with the Kentucky Aquaculture Task Force and the Kentucky Department of Fish and Wildlife Resources, to conduct and facilitate a series of statewide public meetings relating to the public support and regulation of reservoir ranching of paddlefish (zooplanktivore) on public waters, and making an appropriation therefor.

WHEREAS, The Kentucky Aquaculture Task Force is directed to assist the promotion and study of the aquaculture industry in Kentucky; and

WHEREAS, reservoir ranching of paddlefish has been investigated without biological impacts and has been determined to be a possible new enterprise; and

WHEREAS, the level of public support of the use of public waters and fisheries for reservoir ranching should be considered in any decision to allow reservoir ranching; and

WHEREAS, the General Assembly needs information on the feasibility and public support of allowing reservoir ranching of paddlefish on public waters in order to objectively and responsibly determine whether to proceed;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Kentucky State University, with the cooperation of the Kentucky Aquaculture Task Force and the Kentucky Department of Fish and Wildlife Resources, shall conduct and facilitate a series of statewide public meetings, conduct a survey, and generate a final report and recommendations on:

(1) The feasibility of allowing reservoir ranching of paddlefish on public waters; and

(2) The public support of reservoir ranching of paddlefish on public waters.

Section 2. There is hereby appropriated from the general fund for fiscal year 2002-2003 the sum of $10,000 to accomplish the feasibility study, meetings, and survey. Any amount remaining following the completion of the study shall revert to the general fund. The meetings shall begin not later than September 1, 2002, and the report and recommendations shall be submitted to the Interim Joint Committee on Agriculture and Natural Resources not later than the committee's regularly scheduled meeting in November, 2002.

The Committee Substitute to **HJR 210** is as follows:

HJR 210, A JOINT RESOLUTION authorizing and directing Kentucky State University, in cooperation with the Kentucky Aquaculture Task Force and the Kentucky Department of Fish and Wildlife Resources, to conduct and facilitate a series of statewide public meetings relating to the public support and regulation of reservoir ranching of paddlefish (zooplanktivore) on public waters, and making an appropriation therefor.

WHEREAS, The Kentucky Aquaculture Task Force is directed to assist the promotion and study of the aquaculture industry in Kentucky; and

WHEREAS, reservoir ranching of paddlefish should continue to be investigated to determine biological impacts; and

WHEREAS, the possible economic benefits should be determined; and

WHEREAS, the level of public support of the use of public waters and fisheries for reservoir ranching should be considered in any decision to allow reservoir ranching; and

WHEREAS, the General Assembly needs information on the feasibility and public support of allowing reservoir ranching of paddlefish on public waters in order to objectively and responsibly determine whether to proceed;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Kentucky State University, with the cooperation of the Kentucky Aquaculture Task Force and the Kentucky Department of Fish and Wildlife Resources, shall conduct and facilitate a series of statewide public meetings, conduct a survey, and generate a final report and recommendations on:

(1) The feasibility of allowing reservoir ranching of paddlefish on public waters; and

(2) The public support of reservoir ranching of paddlefish on public waters.

Section 2. There is hereby appropriated from the general fund for fiscal year 2002-2003 the sum of $10,000 to accomplish the feasibility study, meetings, and survey. Any amount remaining following the completion of the study shall revert to the general fund. The meetings shall begin not later than September 1, 2002, and the report and recommendations shall be submitted to the Interim Joint Committee on Agriculture and Natural Resources not later than the committee's regularly scheduled meeting in November, 2002.

HCR 226, A CONCURRENT RESOLUTION directing the Legislative Research Commission to study pond populations of catfish to develop more accurate methods of estimating the number and size of catfish in ponds, to study feeding sinking feed in conjunction with floating feed to give smaller catfish more access to feed, and to study the economic feasibility of raising Red Claw Crayfish for commercial production in Kentucky.

WHEREAS, aquaculture is an important industry in Kentucky and offers an opportunity for farmers to diversify their agricultural operations; and

WHEREAS, the potential for aquacultural enterprises of all aspects to add value to farmers' net worth is great; and

WHEREAS, aquaculture producers, particularly catfish producers, need more accurate procedures for estimating the number and size of fish that are in their ponds; and

WHEREAS, larger fish in a pond have an inherent advantage over smaller fish when competing for food; and

WHEREAS, the Red Claw Crayfish has shown potential to be an economical aquacultural commodity in Kentucky; and

WHEREAS, the Aquaculture Research Center at Kentucky State University has been the leading facility in the state for aquacultural research;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to study the following aquacultural research topics:

(1) A pond population study to develop more accurate methods of estimating the number and size of catfish in ponds to help producers become more efficient in the feeding and harvesting of catfish;

(2) A feeding study to feed sinking feed to understocked catfish ponds in conjunction with floating feed to help smaller fish have more access to feed; and

(3) A study to determine the economic feasibility of the Red Claw Crayfish as a candidate for commercial production in Kentucky.

Section 2. The Legislative Research Commission may retain a consultant or contract with Kentucky State University to assist in or to carry out the studies required in Section 1.

Section 3. The studies shall be completed and the results submitted to the General Assembly by November 1, 2003.

Section 4. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

SB 13, AN ACT relating to the promotion of Kentucky's agricultural economy and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

The Commissioner of Agriculture shall identify opportunities in the state procurement process for the Commonwealth to use its purchasing power to support and encourage the growth of Kentucky's agricultural economy. Such opportunities shall include the sale of Kentucky-grown products, as the term is used is KRS 260.030(1)(c), to include produce, meat, poultry, fish, and shellfish, to any public purchasing unit, as defined in KRS 45A.295(3), including, but not limited to, the Department of Parks, the Department of Corrections, public universities, school districts, and local governments across the Commonwealth. The Commissioner shall report such opportunities to the Governor, the secretary of the Finance and Administration Cabinet and the Legislative Research Commission by October 1, 2002. The report shall also include recommended changes in the procurement system that may accommodate the sale of more Kentucky-grown agriculture products to state agencies.

SECTION 2. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

The Department of Parks shall establish a pilot project within the Department of Parks to promote the sale of Kentucky-grown products, as the term is used in KRS 260.030(1)(c), including, but not limited to, fish, shellfish, and beef, in state resort park restaurants and gift shops. The promotion program shall operate in conjunction with the Kentucky logo or labeling statement program pursuant to KRS 260.015. The commissioner of the Department of Parks shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the promotion program no later than October 1, 2002.

SECTION 3. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

The Department of Parks shall establish a pilot project within the Department of Parks to require that if purchasing catfish or horticultural products, state parks purchase Kentucky farm-raised catfish and Kentucky horticultural products if the purchasing officer determines that they are available, can be priced on the menu to encourage their sale, and meet the quality standards set by the Department of Parks. The commissioner of the Department of Parks shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the purchasing requirement as set forth in this section as soon as possible after the effective date of this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) The Department of Parks shall establish a steering committee which shall consist of:

(a) The secretary of the Finance and Administration Cabinet, or a designee;

(b) The Commissioner of Agriculture, or a designee;

(c) The commissioner of the Department of Parks, or a designee;

(d) The director of the Agriculture Development Board or a designee;

(e) The coordinator of the Kentucky State University Aquaculture Program or a designee;

(f) The chairperson of the horticulture department at the University of Kentucky, or a designee; and

(g) Two (2) members of organizations and associations representing the Kentucky farming community, appointed by the Commissioner of Agriculture.

(2) The steering committee shall plan and assist in the implementation of the promotion program identified in Section 2 of this Act.

(3) The steering committee shall recommend by September 1, 2002, the structure and objectives of the promotion program identified in Section 2 of this Act.

(4) Upon implementation of the pilot projects identified in Sections 2 and 3 of this Act, the steering committee shall evaluate the pilot projects and submit an initial report to the Governor, the secretary of the Finance and Administration Cabinet, and the Legislative Research Commission no later than October 1, 2003, and a second report no later than October 1, 2004.

(5) The steering committee shall terminate on December 31, 2004.

SECTION 5. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

By January 1, 2003, the secretary of the Finance and Administration Cabinet shall issue guidelines to the various agencies identified by the Commissioner of Agriculture in Section 1 of this Act directing the manner in which those agencies shall employ the state's procurement process to support and encourage the growth of Kentucky's agricultural economy. Notwithstanding the provisions of KRS Chapter 45A, the secretary of the Finance and Administration Cabinet shall make necessary changes to administrative regulations and cabinet policy in accordance with Sections 1 to 4 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Kentucky-grown" means an agricultural product that is produced, cultivated, raised, caught, or harvested in Kentucky; and

(b) "Perishables" means fresh produce, fresh seafood, fresh eggs, freshwater fish, or fresh meat products.

(2) If purchasing perishables, state agencies, as defined in KRS 45A.505, are encouraged to purchase Kentucky-grown perishables if available.

(3) Prospective vendors of Kentucky-grown perishables may apply to the Kentucky Department of Agriculture for marketing assistance for the purchase of Kentucky-grown logos or labeling statements to be used on Kentucky-grown perishables under KRS 260.015, the Kentucky logo or labeling statement program.

(4) Before a state agency may purchase Kentucky-grown perishables, the prospective vendor shall provide to the purchasing officer written certification that the perishables under consideration for purchase meet the definition of Kentucky-grown perishables.

Section 7. Whereas the immediate survival and growth of Kentucky's catfish industry and horticultural industry are in the interest of the Commonwealth, and whereas it is not necessary for the steering committee to assist in the implementation of Section 3 of this Act, an emergency is declared to exist, and Section 3 of this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Substitute to **SB 13** is as follows:

SB 13, AN ACT relating to the promotion of Kentucky's agricultural economy and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

As used in this section and Sections 7, 8, and 9 of this Act:

(1) "Agricultural product" means any unprocessed farm product raised or produced as a result of being in the business of "agriculture", as defined by KRS 246.010. "Agricultural product" does not include tobacco; and

(2) "Kentucky-grown agricultural product" means any agricultural product raised or produced in Kentucky.

SECTION 2. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

The Commissioner of Agriculture shall identify opportunities in the state procurement process for the Commonwealth to use its purchasing power to support and encourage the growth of Kentucky's agricultural economy. Those opportunities shall *include the sale of Kentucky-grown agricultural products, as defined in Section 1 of this Act, to any public purchasing unit, as defined in KRS 45A.295(3), including, but not limited to, the Department of Parks, the Department of Corrections, public universities, school districts, and local governments across the Commonwealth. The Commissioner shall report those opportunities to the Governor, the secretary of the Finance and Administration Cabinet, and the Legislative Research Commission by October 1, 2002. The report shall also include recommended changes in the procurement system that may accommodate the sale of more Kentucky-grown agricultural products to state agencies.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

The Department of Parks shall establish a pilot project within the Department of Parks to promote the sale of Kentucky-grown agricultural products, as defined in Section 1 of this Act, in state resort park restaurants and gift shops. The promotion program shall operate in conjunction with the Kentucky logo or labeling statement program pursuant to KRS 260.015. The commissioner of the Department of Parks shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the promotion program no later than October 1, 2002.

SECTION 4. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

The Department of Parks shall establish a pilot project within the Department of Parks to require that if purchasing catfish or horticultural products, state parks purchase Kentucky farm-raised catfish and Kentucky horticultural products if the purchasing officer determines that they are available, can be priced on the menu to encourage their sale, and meet the quality standards set by the Department of Parks. As used in this section, "horticultural product" means fruit, nuts, vegetables, and herbs. The commissioner of the Department of Parks shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the purchasing requirement as set forth in this section as soon as possible after the effective date of this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) The Department of Parks shall establish a steering committee which shall consist of:

(a) The secretary of the Finance and Administration Cabinet, or a designee;

(b) The Commissioner of Agriculture, or a designee;

(c) The commissioner of the Department of Parks, or a designee;

(d) The director of the Agriculture Development Board, or a designee;

(e) The coordinator of the Kentucky State University Aquaculture Program, or a designee;

(f) The chairperson of the horticulture department at the University of Kentucky, or a designee; and

(g) Two (2) members of organizations and associations representing the Kentucky farming community, appointed by the Commissioner of Agriculture.

(2) The steering committee shall plan and assist in the implementation of the promotion program identified in Section 3 of this Act.

(3) The steering committee shall recommend by September 1, 2002, the structure and objectives of the promotion program identified in Section 3 of this Act.

(4) Upon implementation of the pilot projects identified in Sections 3 and 4 of this Act, the steering committee shall evaluate the pilot projects and submit an initial report to the Governor, the secretary of the Finance and Administration Cabinet, and the Legislative Research Commission no later than October 1, 2003, and a second report no later than October 1, 2004.

(5) The steering committee shall terminate on December 31, 2004.

SECTION 6. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

By January 1, 2003, the secretary of the Finance and Administration Cabinet shall issue guidelines to the various agencies identified by the Commissioner of Agriculture in Section 2 of this Act directing the manner in which those agencies shall employ the state's procurement process to support and encourage the growth of Kentucky's agricultural economy. Notwithstanding the provisions of KRS Chapter 45A, the secretary of the Finance and Administration Cabinet shall make necessary changes to administrative regulations and cabinet policy in accordance with this section and Sections 2, 7, 8, and 9 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) If purchasing agricultural products, state agencies, as defined by KRS 45A.505, are encouraged to purchase Kentucky-grown agricultural products, if available. State agencies shall give a five percent (5%) preference to vendors that supply Kentucky-grown agricultural products over vendors that supply agricultural products that are raised or produced outside the United States or its territories. The preference shall be limited to the portion of the bid relating to agricultural products.

(2) (a) Prospective vendors of Kentucky-grown agricultural products may apply to the Kentucky Department of Agriculture for marketing assistance for the purchase of Kentucky-grown logos or labeling statements to be used on Kentucky-grown agricultural products under KRS 260.015, the Kentucky logo or labeling program.

(b) Before a contract is awarded to a vendor using the preference provided in subsection (1) of this section, the

vendor shall be required to participate in the logo or labeling program established by KRS 260.015, and shall provide to the purchasing officer written certification that the agricultural products under consideration for purchase meet the definition of Kentucky-grown agricultural product.

(3) If a contract is awarded to a vendor that supplies agricultural products that are raised or produced outside the United States or its territories, the vendor shall be required to identify the country in which the agricultural product was raised or produced and clearly label that information on any containers or packages holding the product.

Section 8. KRS 45A.035 is amended to read as follows:

(1) The secretary of the Finance and Administration Cabinet shall have power and authority over, and may, except as otherwise expressly provided in this code, adopt regulations pursuant to KRS Chapter 13A and consistent with this code governing the purchasing, management, and control of any and all supplies, services, and construction, and other items required to be purchased by the Commonwealth. The secretary shall consider and decide matters of policy with regard to state procurement. The secretary shall have the power of review with respect to the implementation of regulations and policy determinations.

(2) Regulations shall be adopted governing the following:

(a) Conditions and procedures for delegations of purchasing authority;

(b) Prequalification, suspension, debarment, and reinstatement of prospective bidders;

(c) Small purchase procedures;

(d) Conditions and procedures for the purchase of[~~ perishables and~~] items for resale;

(e) Conditions and procedures for the purchase of agricultural products in accordance with Section 7 of this Act;

(f) Conditions and procedures for the use of source selection methods authorized by this code, including emergency purchases;

(g)[~~(f)~~] Opening and rejection of bids or offers, consideration of alternate bids, and waiver of informalities in offers;

(h)[~~(g)~~] Confidentiality of technical data and trade secrets information submitted by actual or prospective bidders or offerors;

(i)[~~(h)~~] Partial, progressive, and multiple awards;

(j)[~~(i)~~] Supervision of storerooms and inventories, including determination of appropriate stock levels and the management, transfer, sale, or other disposal of state-owned property;

(k)[~~(j)~~] Definitions and classes of contractual services and procedures for acquiring them.

The secretary may adopt such other regulations as deemed advisable to carry out the purposes of this code.

Section 9. KRS 45A.095 is amended to read as follows:

(1) A contract may be made by noncompetitive negotiation only for sole source purchases, or when competition is not feasible, as determined by the purchasing officer in writing prior to award, under administrative regulations promulgated by the secretary of the Finance and Administration Cabinet or the governing boards of universities operating under KRS Chapter 164A, or when emergency conditions exist. Sole source is a situation in which there is only one (1) known capable supplier of a commodity or service, occasioned by the unique nature of the requirement, the supplier, or market conditions. Insofar as it is practical, no less than three (3) suppliers shall be solicited to submit written or oral quotations whenever it is determined that competitive sealed bidding is not feasible. Award shall be made to the supplier offering the best value. The names of the suppliers submitting quotations and the date and amount of each quotation shall be placed in the procurement file and maintained as a public record. Competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) Where rates are fixed by law or ordinance;

(c) For library books;

(d) For commercial items that are purchased for resale;

(e) For interests in real property;

(f) For visiting speakers, professors, expert witnesses, and performing artists;[~~ and~~]

(g) For personal service contracts executed pursuant to KRS 45A.690 to 45A.725***; and***

(h) For agricultural products in accordance with Section 7 of this Act.

(2) The chief procurement officer, the head of a using agency, or a person authorized in writing as the designee of either officer may make or authorize others to make emergency procurements when an emergency condition exists.

(3) An emergency condition is a situation which creates a threat or impending threat to public health, welfare, or safety such as may arise by reason of fires, floods, tornadoes, other natural or man-caused disasters, epidemics, riots, enemy attack, sabotage, explosion, power failure, energy shortages, transportation emergencies, equipment failures, state or federal legislative mandates, or similar events. The existence of the emergency condition creates an immediate and serious need

for services, construction, or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten the functioning of government, the preservation or protection of property, or the health or safety of any person.

(4) The Finance and Administration Cabinet may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency shall be fully explained, in writing, by the head of the agency for which the purchase is to be made. The explanation shall be approved by the secretary of the Finance and Administration Cabinet and shall include the name of the vendor receiving the contract along with any other price quotations and a written determination for selection of the vendor receiving the contract. This information shall be filed with the record of all such purchases and made available to the public. Where practical, standard specifications shall be followed in making emergency purchases. In any event, every effort should be made to effect a competitively established price for purchases made by the state.

Section 10. Whereas the immediate survival and growth of Kentucky's catfish industry and horticultural industry are in the interest of the Commonwealth, and whereas it is not necessary for the steering committee to assist in the implementation of Section 4 of this Act, an emergency is declared to exist, and Section 4 of this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

SB 179, AN ACT relating to property valuation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Cabinet" means the Revenue Cabinet.

(2) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(3) "Real property" includes all lands within this state and improvements thereon.

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state.

(6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent ($0.001) per one hundred dollars ($100) of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land.

(7) "Net assessment growth" means the difference between:

(a) The total valuation of property subject to taxation by the county, city, school district, or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and

(b) The total valuation of property subject to taxation by the county, city, school district, or special district for the current year.

(8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:

(a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction; however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one (1) school district to another;

(b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;

(c) The value of improvements to existing nonresidential property;

(d) The value of new residential improvements to property;

(e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;

(f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator, the value of such property as a farm shall be a deletion from that category;

(g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;

(h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and

(i) The value of improvements to real property previously under assessment moratorium.

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year.

(9) "Agricultural land" means*:*

(a) Any tract of land, including all income-producing improvements, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber*;*

(b) Any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for aquaculture; or

(c) Any tract of land~~[, or where]~~ devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government.

(10) "Horticultural land" means any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers, or ornamental plants.

(11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:

(a) Relative percentages of tillable land, pasture land, and woodland;

(b) Degree of productivity of the soil;

(c) Risk of flooding;

(d) Improvements to and on the land that relate to the production of income;

(e) Row crop capability including allotted crops other than tobacco;

(f) Accessibility to all-weather roads and markets; and

(g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income.

(12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value.

(13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including, but not limited to, lawns, drives, flower or vegetable gardens, outbuildings, and all other land connected thereto.

(14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner.

(15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property.

(16) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure.

(17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home.

(a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.

(b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.

(c) Truck camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.

(d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

Calendar

HB 747, HB 873, SB 159, SB 168, SB 192, SB 211, HB 738, HB 798, HB 204, HB 435, HB 556, SB 38, SB 41, SB 146, SB 152, SB 187, SCR 34, HB 768, SB 139, SB 230, HB 359, HB 384, HB 639, HB 734, HB 781, HB 805, HB 811, and **SB 97** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Stumbo moved to suspend the rules to allow for a Rules Committee Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 763, HB 801, HB 812, HB 857, HCR 132, HJR 191, HCR 218, HB 359, HB 384, HB 556, HB 734, HB 738, HB 747, HB 798, HB 811,** and **HB 873** have been posted for passage in the Orders of the Day for March 15, 2002.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 744, HB 769, HB 781**

Licensing and Occupations: **HB 768**

Orders of the Day

HB 714, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Floor Amendment No. 1 to **HB 714**. Agreed.

Representative Bowling moved that **HB 714**, as amended, be passed.

On the roll call the vote was: **Yeas 86, Nays 3**. (See March 14, 2002, roll call on **HB 714** - Appendix.)

HB 714, as amended, was passed and the title agreed to.

Representative Bowling moved that the vote by which **HB 714**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 61 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **HJR 61** be adopted.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 14, 2002, roll call on **HJR 61** - Appendix.)

HJR 61 was adopted.

Representative Wilkey moved that the vote by which **HJR 61** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 76, with Committee Substitute, Committee Amendment, and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 76**. Agreed.

Representative Burch moved that **HB 76**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 100, Nays 0**. (See March 14, 2002, roll call on **HB 76** - Appendix.)

HB 76, by way of Committee Substitute, was passed.

Representative Burch moved the adoption of Committee Amendment No. 1 Title to **HB 76**. Agreed.

Representative Burch moved that the vote by which **HB 76**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 152** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:55 p.m.)

Orders of the Day (Continued)

HB 184, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved the adoption of the Committee Substitute to **HB 184**. Agreed.

Representative Cherry moved that **HB 184**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 2**. (See March 14, 2002, roll call on **HB 184** - Appendix.)

HB 184, by way of Committee Substitute, was passed and the title agreed to.

Representative Cherry moved that the vote by which **HB 184**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 89 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **SB 89** be passed.

Representative Heleringer asked to address the House and moved that his remarks be spread upon the Journal. Agreed.

UNOFFICIAL TRANSCRIPT - Mr. Speaker, I thank the Gentleman from Ballard for yielding to me for a few remarks about Senator Long that, unless there are objections, I 'd like these remarks spread on the record. Mr. Speaker, I'm one of the many House members who lost out in the spirited competition to be the floor manager for SB 89. When I told Charlotte the other day that I was going to be the floor manager handling this bill, she said "Oh, that's nice, you make the 8 one so far" – turning the page in her notebook, she said, "and we have 10 more names on the volunteer list." But, I do want to say a few things about my friend and my state senator, who told us last week in committee that SB 89 will probably be the last bill he will pass as a legislator.

I know I speak for all of us when I say that this sad occasion should not go unnoticed.

It might come as a surprise to some of you that Sen. Long is my state senator, but – Gentleman from Floyd – there were some "glitches' in the last re-districting bill as well as the one we passed this year. I happen to live in one of the six Jefferson County precincts that were put into Senator Long's Senate district.

If this is really true, that this is Senator Long's final bill, even though I realize it is a little early in the session for eulogies for any of our retiring members, I think it is appropriate that we take just a few minutes to say something, however inadequate, about Senator Long's outstanding 21-year term of service in the Kentucky General Assembly.

SB 89 is a typical example of the kinds of bills Sen. Long has championed in his distinguished legislative career. This bill, as the Gentleman from Ballard has told us, provides a mechanism for notifying victims of sexual assault and domestic violence that their convicted abusers have attempted to purchase a firearm. SB 89 strengthens families and protects women and children and victims of crime, sexual assault, and domestic violence.

Although I have been very proud to have Marshall Long as my State Senator the last 4 years, I am more grateful for the fact that he spent 17 of his 21-years in the General Assembly as a member of this House.

Here, in this body, along with displaying great leadership skills on a wide variety of issues, he served as Chairman of the A&R Committee and as Chairman of the Personal Services Contract Committee where, for 14 years, he has been a consistent and strong voice for opposing unnecessary spending on contracts.

While a member of this House, Marshall Long, a few years ago if you recall, was voted the No. 1 legislator in overall effectiveness and integrity in a poll taken among all legislators, lobbyists, and the Capital Press Corps. I don't recall anyone asking for a roll call vote on the results of that poll which I assure you had absolutely no margin of error whatsoever.

And let me give you just a brief example of how Sen. Long earned that ranking even outside of his many accomplishments enacted into law.

As I said previously, Sen. Long's Senate District included six of my precincts in Eastern Jefferson County. In his one and only race for the Senate in 1998, he didn't do very well at all in those precincts because they are some of the most solidly -- Republican precincts in the state. Indeed, he lost every one by a sizable margin. A lesser man perhaps would have blown off those precincts and the problems of the people living in those areas. Senator Long, of course, is not such a lesser man. Friends said of Abraham Lincoln that "he was a very poor hater" – so is Marshall Long, who proceeded to be more visible in that part of his district than most of the local public officials living in Jefferson County.

He came to every public meeting I ever had in those areas. He came to Planning and Zoning Commission Hearings. He came to neighborhood meetings in Eastwood and Lake Forest and the Polo Fields. He came to all the meetings when the future existence of the ICF/MR unit at Central State Hospital was threatened. He wrote letters and made phone calls. His constant plea to me over and over and over was "please tell me what I can do to help."

He was an active and valued member of the Jefferson County Merger Task Force and an active and valued member of the Jefferson County delegation. We in Jefferson County will miss his wise voice and counsel very much.

In closing, Mr. Speaker, I think some words first spoken by Prime Minister Winston Churchill some 60 years ago are most appropriate to describe Senator Long's distinguished 21-year record as a member of the General Assembly.

The date was Nov. 12, 1940, and Mr. Churchill was addressing the House of Commons upon the occasion of the death of his great rival and predecessor, Neville Chamberlain, and he said:

"The only guide to a man is his conscience; the only shield to his memory is the rectitude and sincerity of his actions. It is very imprudent to walk through life without this shield, because we are so mocked by the failure of our hopes; but with this shield, however the Fates may play, we march always in the ranks of honor."

The name of Marshall Long will always be indelibly etched in the ranks of honor and of all those who have been privileged to serve in the Kentucky General Assembly. Marshall Long will always be remembered by us, his peers, and by posterity, as truly one of the General Assembly's giants, one of its champions, and simply, as one of the best who ever served here.

Mr. Speaker, I also am proud to move passage of **SB 89**.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 14, 2002, roll call on **SB 89** - Appendix.)

SB 89 was passed and the title agreed to.

Representative Geveden moved that the vote by which **SB 89** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 405, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Turner moved the adoption of the Committee Substitute to **HB 405**. Agreed.

Representative J. Turner moved that **HB 405**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 2**. (See March 14, 2002, roll call on **HB 405** - Appendix.)

HB 405, by way of Committee Substitute, was passed.

Representative J. Turner moved the adoption of Committee Amendment No. 1 Title to **HB 405**. Agreed.

Representative J. Turner moved that the vote by which **HB 405**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 152** was delivered to the Senate and signed by the President. Delivered to the Governor on March 14, 2002, at 3:25 p.m.

Orders of the Day (Continued)

HB 519 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 519** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 14, 2002, roll call on **HB 519** - Appendix.)

HB 519 was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 519** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 628 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Comer moved that **HB 628** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 14, 2002, roll call on **HB 628** - Appendix.)

HB 628 was passed and the title agreed to.

Representative Comer moved that the vote by which **HB 628** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 614, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 614**. Agreed.

Representative Moberly moved that **HB 614**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 14, 2002, roll call on **HB 614** - Appendix.)

HB 614, by way of Committee Substitute, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 614**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 662, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved the adoption of the Committee Substitute to **HB 662**. Agreed.

Representative Haydon moved that **HB 662**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 14, 2002, roll call on **HB 662** - Appendix.)

HB 662, by way of Committee Substitute, was passed and the title agreed to.

Representative Haydon moved that the vote by which **HB 662**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 745, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved the adoption of Committee Amendment No. 1 to **HB 745**. Agreed.

Representative Collins moved that **HB 745**, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 14, 2002, roll call on **HB 745** - Appendix.)

HB 745, as amended, was passed and the title agreed to.

Representative Collins moved that the vote by which **HB 745**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 542, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved the adoption of the Committee Substitute to **HB 542**. Agreed.

Representative Yonts moved the adoption of Floor Amendment No. 1 to **HB 542**. Agreed.

Representative Yonts moved that **HB 542**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 1**. (See March 14, 2002, roll call on **HB 542** - Appendix.)

HB 542, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 542**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 270, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 270** be passed.

Representative Vincent moved the adoption of Floor Amendment No. 1 to **HB 270**. Agreed.

Representative Geveden moved that **HB 270**, as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 14, 2002, roll call on **HB 270** - Appendix.)

HB 270, as amended, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 270**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 652, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved the adoption of the Committee Substitute to **HB 652**. Agreed.

Representative Wilkey moved the adoption of Floor Amendment No. 1 to **HB 652**. Agreed.

Representative Stein moved that **HB 652**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 14, 2002, roll call on **HB 652** - Appendix.)

HB 652, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Stein moved that the vote by which **HB 652**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 821, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pullin moved the adoption of Committee Amendment No. 1 to **HB 821**. Agreed.

Representative Pullin moved that **HB 821**, as amended, be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 14, 2002, roll call on **HB 821** - Appendix.)

HB 821, as amended, was passed and the title agreed to.

Representative Pullin moved that the vote by which **HB 821**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 177, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasch moved the adoption of the Committee Substitute to **HCR 177**. Agreed.

Representative Rasch moved that **HCR 177**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See March 14, 2002, roll call on **HCR 177** - Appendix.)

HCR 177, by way of Committee Substitute, was passed and the title agreed to.

Representative Rasch moved that the vote by which **HCR 177**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 182 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that **HCR 182** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 14, 2002, roll call on **HCR 182** - Appendix.)

HCR 182 was adopted.

Representative Webb moved that the vote by which **HCR 182** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 185 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HCR 185** be adopted.

On the roll call the vote was: **Yeas 99, Nays 0**. (See March 14, 2002, roll call on **HCR 185** - Appendix.)

HCR 185 was adopted.

Representative Damron moved that the vote by which **HCR 185** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 186 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HJR 186** be adopted.

On the roll call the vote was: **Yeas 72, Nays 21**. (See March 14, 2002, roll call on **HJR 186** - Appendix.)

HJR 186 was adopted.

Representative Burch moved that the vote by which **HJR 186** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 188 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thompson moved that **HJR 188** be adopted.

On the roll call the vote was: **Yeas 97, Nays 1**. (See March 14, 2002, roll call on **HJR 188** - Appendix.)

HJR 188 was adopted.

Representative Thompson moved that the vote by which **HJR 188** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 426, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved the adoption of the Committee Substitute to **HB 426**. Agreed.

Representative Weaver moved that **HB 426**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 14, 2002, roll call on **HB 426** - Appendix.)

HB 426, by way of Committee Substitute, was passed and the title agreed to.

Representative Weaver moved that the vote by which **HB 426**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 506, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Feeley moved the adoption of the Committee Substitute to **HB 506**. Agreed.

Representative Feeley moved that **HB 506**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 14, 2002, roll call on **HB 506** - Appendix.)

HB 506, by way of Committee Substitute, was passed and the title agreed to.

Representative Feeley moved that the vote by which **HB 506**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 596, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of the Committee Substitute to **HB 596**. Agreed.

Representative Gray moved that **HB 596**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 89, Nays 1**. (See March 14, 2002, roll call on **HB 596** - Appendix.)

HB 596, by way of Committee Substitute, was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 596**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 661, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Tapp moved the adoption of the Committee Substitute to **HB 661**. Agreed.

Representative Tapp moved that **HB 661**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 89, Nays 5**. (See March 14, 2002, roll call on **HB 661** - Appendix.)

HB 661, by way of Committee Substitute, was passed and the title agreed to.

Representative Tapp moved that the vote by which **HB 661**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 708, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of the Committee Substitute to **HB 708**. Agreed.

Representative Thomas moved that **HB 708**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 14, 2002, roll call on **HB 708** - Appendix.)

HB 708, by way of Committee Substitute, was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 708**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 736, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Treesh moved that **HB 736** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 14, 2002, roll call on **HB 736** - Appendix.)

HB 736 was passed and the title agreed to.

Representative Treesh moved that the vote by which **HB 736** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 739 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved that **HB 739** be passed.

On the roll call the vote was: **Yeas 96, Nays 1**. (See March 14, 2002, roll call on **HB 739** - Appendix.)

HB 739 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 739** was passed be reconsidered and said motion be placed on the table. Agreed.

Speaker Pro Tem L. Clark assumed the chair.

HB 810 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HB 810** be passed.

On the roll call the vote was: **Yeas 91, Nays 1**. (See March 14, 2002, roll call on **HB 810** - Appendix.)

HB 810 was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 810** was passed be reconsidered and said motion be placed on the table. Agreed.

Speaker Richards resumed the chair.

HJR 122 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Upchurch moved that **HJR 122** be adopted.

On the roll call the vote was: **Yeas 90, Nays 0**. (See March 14, 2002, roll call on **HJR 122** - Appendix.)

HJR 122 was adopted.

Representative Upchurch moved that the vote by which **HJR 122** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 846, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of the Committee Substitute to **HB 846**. Agreed.

Representative Thomas moved the adoption of Floor Amendment No. 1 to **HB 846**. Agreed.

Representative Thomas moved that **HB 846**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 14, 2002, roll call on **HB 846** - Appendix.)

HB 846, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 846**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 129 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Coleman moved that **HCR 129** be adopted.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 14, 2002, roll call on **HCR 129** - Appendix.)

HCR 129 was adopted.

Representative Coleman moved that the vote by which **HCR 129** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 391, with Committee Substitute, Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of the Committee Substitute to **HB 391**. Agreed.

Representative Wilkey moved the adoption of Committee Amendment No. 1 to **HB 391**. Agreed.

Representative Wilkey moved that **HB 391**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 14, 2002, roll call on **HB 391** - Appendix.)

HB 391, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 391**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 746, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of the Committee Substitute to **HB 746**. Agreed.

Representative Palumbo moved that **HB 746**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 14, 2002, roll call on **HB 746** - Appendix.)

HB 746, by way of Committee Substitute, as amended, was passed.

Representative Palumbo moved the adoption of Committee Amendment No. 1 Title to **HB 746**. Agreed.

Representative Palumbo moved that the vote by which **HB 746**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that the following bill be recommitted:

Appropriations and Revenue: **HB 743**

Representative Stumbo moved that the rules be suspended for the Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HR 237, by Representative Graham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of John E. Monarch III.

HR 238, by Representatives L. Clark, Jenkins, Miller, Siler, Horlander, P. Clark, Ballard, Adkins, Stacy, Damron, Yonts, Gooch, Bruce, J. Adams, Burch, Crall, Treesh, Barrows, L. Belcher, Richards, Callahan, and De. Butler: A RESOLUTION urging that bowling be added as a letter sport by the Kentucky High School Athletic Association.

HCR 239, by Representative Burch: A CONCURRENT RESOLUTION reauthorizing the task force on quality long-term care for the purpose of studying methods to promote and enhance the provision of quality care in Kentucky's long-term care facilities.

HR 240, by Representative Denham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Olious Mae Henson.

HR 241, by Representative Denham: A RESOLUTION adjourning the House of Representatives in honor of Ronnie Fern upon the occasion of his retirement on June 30, 2002, as Superintendent of Fleming County Schools.

HCR 242, by Representatives Meeks, L. Clark, Marzian, Brinkman, Jenkins, Crimm, Horlander, P. Clark, Simpson, Miller, Wayne, Burch, Feeley, Bather, Heleringer, Riner, Riggs, Bratcher, De. Butler, Crenshaw: A CONCURRENT RESOLUTION recognizing the Kentucky Center for African American Heritage.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **SB 130**

State Government: **SB 1, SB 33, SB 231**

The Clerk announced that the following Bills and Resolution have been withdrawn from posting for Committee consideration:

State Government: **HCR 18, HB 38, HB 594, HB 675**

Motions, Petitions, and Communications (Continued)

Representative Gray moved that the rules be suspended to act upon a Resolution.

Representative Gray moved the adoption of the following **HR 155**:

HR 155, A RESOLUTION honoring the working men and women of the Commonwealth who have died on the job, and urging the Governor to declare April 28, 2002, "Workers' Memorial Day."

WHEREAS, Workers' Memorial Day takes place every April 28th, an international day of remembrance of workers killed, disabled, injured or made unwell by their work, and the slogan for the day is "Remember the dead-Fight for the living"; and

WHEREAS, April 28, 2002 marks the thirty-first anniversary of the Occupational Safety and Health Act designed to protect working men and women in American workplaces; and

WHEREAS, on April 28 workers throughout the world gather together in a spirit of international solidarity to remember lost co-workers and pledge their continued support for improvements in workplace safety and health; and

WHEREAS, in 2000, 132 workers in Kentucky lost their lives while performing their jobs, and others died as the result of occupational diseases, leaving behind families and loved ones that depended on them, while many more workers were disabled or injured; and

WHEREAS, this Commonwealth recognizes the need to continue the fight for stronger job safety and health protections, and stronger standards of enforcement for safer workplaces, while never forgetting its fallen workers;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body hereby honors the working men and women of the Commonwealth who have died on the job, and urges the Governor of the Commonwealth to declare April 28, 2002 "Workers' Memorial Day" in tribute to those workers who have lost their lives because of workplace injuries and illnesses.

Section 2. That the Clerk of the House of Representatives is hereby directed to transmit a copy of the Resolution to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, KY 40601, and to Mr. Bill Londrigan, President of Kentucky AFL-CIO, 340-1 Democrat Drive, Frankfort, KY 40601.

There being no objection **HR 155** was adopted.

Representative Graham moved the adoption of the following **HR 233**:

HR 233, A RESOLUTION adjourning the House of Representatives in loving memory and honor of the Reverend Dale Niswonger.

With deepest respect and admiration, we pay homage and tribute to the Reverend Dale Niswonger, and we pause in silent reverence for his soul.

WHEREAS, the Reverend Dale Niswonger was born on November 17, 1953, a native of St. Louis, Missouri, and he traversed these earthly bounds on February 25, 2002, to be with his Savior and Redeemer, Jesus Christ; and

WHEREAS, the Reverend Dale Niswonger was the loving son of the Late Chester and Thelma J. "Pat" Niswonger; he was the devoted husband of Mary Bell Niswonger, and the proud father of a loving daughter, Mendy Niswonger, of Cape Girardeau, Missouri; and he also leaves behind four loving brothers, Tomm Leggett, Dan Niswonger, Marty Niswonger, and Steve Niswonger, all of Cape Girardeau, Missouri; and

WHEREAS, the Reverend Dale Niswonger graduated from Cape Central and Southeast Missouri State University with honors, after which time he taught junior high and high school in Missouri; he was ordained into the ministry in 1974, and he was the pastor of several churches, including Calvary Baptist Church, Forks of Elkhorn Baptist Church, Parksville Baptist Church, Pleasureville Baptist Church, and Sawisa Baptist Church, and during his ministry, he held 187 revivals in Missouri, Illinois, Kentucky, and Arkansas, and at the time of his passing, he was a member of Hindman First Baptist Church; and

WHEREAS, the Reverend Dale Niswonger will be remembered as an active and involved citizen in the Franklin County community where he was director of the Franklin County Senior Citizens Center, he was employed by the State Department of Education as a program consultant, he performed numerous motivational speeches for districts across Kentucky, and he authored "Making a Difference: The Darla Pannier Story"; and

WHEREAS, a life spent worthily should be measured by deeds, not years, and through his devout Christian beliefs, his compassion, enthusiasm, and genuine love and concern for his fellowman, the Reverend Dale Niswonger is worthy of the highest commendation; and

WHEREAS, the passing of the Reverend Dale Niswonger has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of the Reverend Dale Niswonger, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of the Reverend Dale Niswonger.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Mary Bell Niswonger, 754 Isaac Shelby Circle West, Frankfort, Kentucky 40601.

There being no objection **HR 233** was adopted.

Representative Denham moved the adoption of the following **HR 33**:

HR 33, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Richard Winter "Rick" Berry.

With deepest respect and admiration, we pay homage and tribute to Richard Winter "Rick" Berry, and we pause in silent reverence for his soul.

WHEREAS, Richard Winter "Rick" Berry was born on December 2, 1944, a native of Augusta, Bracken County, Kentucky, and he traversed these earthly bounds on November 25, 2001; and

WHEREAS, Richard Winter "Rick" Berry was the loving son of Amy Boothe Berry and the late John W. Berry; he was the devoted husband of 35 years to Martha Gross Berry; he was the loving father of four sons, Charles L. Berry, Sr., of Hancock, New York, Eugene L. Berry of Augusta, Anthony J. Berry of Maysville and John Richard Berry of Brooksville; he was the loving brother of William L. Berry of Augusta, David E. Berry of Maysville, John S. Berry of Brooksville, and a sister, Mary Ann Kearns of Augusta; and he was the proud grandfather of 16 grandchildren and a great-grandchild; and

WHEREAS, Richard Winter "Rick" Berry was a member of St. Augustine Catholic Church and Masonic Lodge No. 80 F&AM; he was a maintenance technician for Clopay Corporation, and a former Augusta city councilman, a former member of the Augusta Board of Education and past coordinator of Bracken County DES; and he was a retired member of the Augusta Volunteer Fire Department where he served as fire chief for several terms; and

WHEREAS, Richard Winter "Rick" Berry served his country with distinction in the Kentucky Army National Guard where he retired with the rank of Sgt. First Class after 20 years of service; and he also served in the United States Army and the Air Force Reserve; and

WHEREAS, the passing of Richard Winter "Rick" Berry has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Richard Winter "Rick" Berry, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Richard Winter "Rick" Berry.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Martha J. Gross Berry, 3478 Mary Ingles Highway, Dover, Kentucky 41034.

There being no objection **HR 33** was adopted.

Representative Pasley moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Pasley moved that he be recorded as voting "yea" on **HB 519**. Agreed.

Representative Pasley moved that his vote be changed from "nay" to "yea" on **HB 739**. Agreed.

Representative Smith moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Smith moved that he be recorded as voting "yea" on **HB 661**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Palumbo moved that she be recorded as voting "yea" on **HB 596**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 846**. Agreed.

Representative Childers moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Childers moved that he be recorded as voting "yea" on **HB 405**. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Kerr moved that he be recorded as voting "yea" on **HB 714**. Agreed.

Representative Riggs moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Riggs moved that he be recorded as voting "yea" on **HB 507**. Agreed.

Representative Thompson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Thompson moved that he be recorded as voting "yea" on **HCR 177**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Palumbo moved that she be recorded as voting "yea" on **HB 792, HB 775, HB 681, HB 809,** and **HCR 184**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 89**(vote recorded prior to bill being reported out of committee; bill never placed before the house for passage), **HB 270, HB 652,** and **HB 821**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HB 184, HB 628,** and **HB 614**. Agreed.

Representative Ford moved that Floor Amendment No. 1 to **SB 141** be withdrawn. Agreed.

Representative Palumbo moved that Floor Amendment No. 4 to **HB 668** be withdrawn. Agreed.

Representative Nesler moved that Floor Amendment No. 2 to **SB 139** be withdrawn. Agreed.

Representative Nesler moved that Floor Amendment No. 1 to **SB 139** be withdrawn. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 851**, by Representative Baugh:

On page 1, on lines 13-21, remove all of the brackets and strikethroughs; and
On page 1, line 15, after the words "private residences", place an open bracket in front of the word "or"; and
On page 1, line 15, strikethrough the words "or in apartment houses of less than six (6) families"; and
On page 1, line 15, place a closing bracket after the word "families"; and
On page 1, line 17, place an open bracket after the word "or"; and
On page 1, lines 17 and 18, strikethrough the words "in apartment houses of less than six (6) families or"; and
On page 1, line 18, place a closing bracket after the word "or"; and
On page 1, line 19, after the word "residences", place an open bracket in front of the word "or"; and
On page 1, lines 19 and 20, strikethrough the words "or in apartment houses of less than six (6) families"; and
On page 1, line 20, place a closing bracket after the word "families"; and
On page 1, line 21, remove the strikethrough from "(f)"; and
On page 1, line 24, delete "***(e)***" and remove the brackets and strikethrough from "(g)"; and
On page 2, line 2, delete "***(f)***" and remove the brackets and strikethroughs from "(h)"; and
On page 2, line 4, delete "***(g)***" and remove the brackets and strikethroughs from "(i)"; and
On page 2, line 6, delete "***(h)***" and remove the brackets and strikethroughs from "(j)"; and
On page 2, line 7, delete "***(i)***" and remove the brackets and strikethroughs from "(k)"; and
On page 2, line 11, delete "***(j)***" and remove the brackets and strikethroughs from "(l)"; and
On page 2, line 16, delete "***(k)***" and remove the brackets and strikethroughs from "(m)"; and
On page 2, line 24, delete "***(l)***" and remove the brackets and strikethroughs from "(n)"; and
On page 3, line 2, delete "***(m)***" and remove the brackets and strikethroughs from "(o)".".

Floor Amendment No. 1 to **HCR 161**, by Representative Hall:

On page 1, line 5, delete "eleven (11)" and insert in lieu thereof "thirteen (13)"; and

On page 2, line 3, after the semicolon ";" delete the word "and"; and

On page 2, line 4, delete "(6)" and insert in lieu thereof "(8)"; and

On page 2, line 5, before the period ".", insert the following:

"; and

(9) Two (2) members of the House Transportation Committee, appointed by the Speaker of the House".

Floor Amendment No. 2 to **HCR 161**, by Representative Hall:

On page 1, line 5, delete "eleven (11)" and insert "twelve (12)"; and

On page 2, line 3, after the semicolon ";" delete the word "and"; and

On page 2, line 4, delete "(6)" and insert "(8)"; and

On page 2, line 5, before the period ".", insert the following:

"; and

(9) One (1) member representing Area Development Districts, appointed by the Legislative Research Commission".

Floor Amendment No. 2 to the Committee Substitute to **HB 748**, by Representative Graham:

On page 1, line 7, by deleting "***and 16A***" and inserting "***or 16***" in lieu thereof;

On page 1, line 20, after the word "***organization***" by inserting "***or any other association or organization which represents any employee in the classified or unclassified service in the executive branch of state government who is subject to KRS Chapter 18A, 151B, or 16, exclusive of members and employees of the General Assembly and employees of the Legislative Research Commission***";

On page 1, line 22, by deleting the word "***and***";

On page 1, line 24, by deleting the "***.***" inserting "***; and***" in lieu thereof;

On page 1, after line 24, by inserting the following:

"***(3) To utilize the state payroll deduction process to collect voluntary member contributions.***"; and

On page 2, line 3, after the word "***shall***" by deleting the rest of line 3 and continuing to delete through line 4 and inserting "***ensure that employee membership dues are allowed to be contributed and collected pursuant to Section 2(3) of this Act.***".

Floor Amendment No. 2 to the Committee Substitute to **HCR 136**, by Representative Barrows:

On page 1, by deleting all of the WHEREAS clauses and inserting the following in lieu thereof:

"WHEREAS, in order to maintain health care offices, health care providers must purchase health care malpractice insurance to protect against the very rare error in health care management of a patient's condition; and

WHEREAS, many factors determine the amount of premium for health care malpractice insurance; and

WHEREAS, health care malpractice insurance premiums are increasing across the country; and

WHEREAS, the rising cost of health care malpractice insurance is jeopardizing the ability of our health care providers to adequately protect their patients in the event of negligence."; and

On page 2, line 3, by deleting "insurance"; and

On page 2, line 4, by deleting the language following the period; and

On page 2, beginning on line 5 and continuing to page 3, line 16, by deleting the text in its entirety and renumbering the subsequent sections accordingly.

Floor Amendment No. 1 to **HB 556**, by Representative J. Turner:

On page 3, line 17, after "***corridor***", insert "***one hundred (100) to***".

Floor Amendment No. 3 to **HCR 161**, by Representative Pasley:

On page 1, line 5 by deleting "eleven (11)" and inserting in lieu thereof "fifteen (15)"; and

On page 1, line 6 by deleting "Kentucky Senate" and inserting in lieu thereof "Senate Transportation Committee"; and

On page 1, line 7 by deleting "Kentucky House of Representatives" and inserting in lieu thereof "House Transportation Committee"; and

On page 2, line 3, by deleting the word "and"; and

On page 2, line 4, by renumbering "(6)" as "(8)"; and

On page 2, line 5, by deleting the period "." and inserting in lieu thereof "; and"; and

On page 2, between lines 5 and 6, by inserting the following:

"(9) One (1) member of the Kentucky League of Sportsmen, appointed by the Legislative Research Commission; and

(10) One (1) member of the Kentucky Council of Area Development Districts, appointed by the Legislative Research Commission; and

(11) One (1) member of an ATV association based in a county located within the boundaries of the East Kentucky Corporation as defined by KRS 154.33-510(1); and

(12) One (1) member of an ATV association based in a county located within the boundaries of the West Kentucky Corporation as defined by KRS 154.85-010(1).".

Floor Amendment No. 1 to **SB 139**, by Representative Nesler:

On page 9, between lines 26 and 27, by inserting the following new paragraph:

"*Private investigators who limit their practice exclusively to working under the supervision of an attorney who is licensed to practice law in this state are exempted from the requirement of this paragraph*.".

Floor Amendment No. 2 to **SB 139**, by Representative Nesler:

On page 9, line 24, by deleting "*one million dollars ($1,000,000)*" and inserting "*two hundred fifty thousand dollars ($250,000)*" in lieu thereof.

Floor Amendment No. 1 to **SB 143**, by Representative J. Adams:

On page 4, after line 6 by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky General Assembly hereby recognizes and affirms that the protection of property values is a legitimate issue for local governments and the enactment of regulations designed to protect property values is a proper exercise of local government legislative power.

(2) As used in this section, unless the context requires otherwise:

(a) "Compatibility standards" means standards that have been enacted by a local government under the authority of this section for the purpose of protecting and preserving the monetary value of real property located within the local government's jurisdiction;

(b) "Local government" means a city, county, urban-county government, charter county government, or consolidated local government that is engaged in planning and zoning under KRS Chapter 100;

(c) "Manufactured home" means a single-family residential dwelling constructed after June 15, 1976, in accordance with the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et. seq., as amended, and designed to be used as a single-family residential dwelling with or without a permanent foundation when connected to the required utilities, and which includes the plumbing, heating, air conditioning, and electrical systems contained therein;

(d) "Qualified manufactured home" means a manufactured home that meets all of the following criteria:

1. Is manufactured on or after July 15, 2002;

2. Is affixed to a permanent foundation and is connected to the appropriate facilities and is installed in compliance with KRS 227.570;

3. Has a width of at least twenty (20) feet at its smallest width measurement or is two (2) stories in height and oriented on the lot or parcel so that its main entrance door faces the street;

4. Has a minimum total living area of nine hundred (900) square feet; and

5. Is not located in a manufactured home land-lease community; and *(e) "Permanent foundation" means a system of supports that is: capable of transferring, without failure, into soil or bedrock, the maximum design load imposed by or upon the structure; constructed of concrete; and placed at a depth below grade adequate to prevent frost damage.*

(3) Any local government may adopt and enforce, as a part of its zoning regulations, compatibility standards governing the placement of qualified manufactured homes in residential zones within the local government's jurisdiction. Compatibility standards shall be adopted, amended, and enforced in the same manner as other zoning regulations and shall be in addition to any zoning regulations that are generally applicable to single-family residences. The compatibility standards shall be designed to ensure that when a qualified manufactured home is placed in a residential zone, it is compatible, in terms of assessed value, with existing housing located within a one-eighth (1/8) mile or less radius from the proposed location of the qualified manufactured home. The compatibility standards adopted by a local government shall relate to architectural features that have a significant impact on the overall assessed value of the structure, including, for example, but not limited to, features such as: roof pitch; square footage of livable space; type and quality of exterior finishing materials; foundation skirting; and existence and type of attached structures.

(4) No local government shall adopt any zoning regulation that excludes qualified manufactured homes from residential zones as long as the qualified manufactured home complies with all zoning regulations generally applicable to single-family residences, including all compatibility standards that have been enacted by the local government under the provisions of this section.

(5) Nothing in this section shall be construed to affect, modify, or abolish restrictions contained in recorded deeds, covenants, or developers' subdivision restrictions.

(6) Nothing in this section shall be construed as limiting in any way the authority of local governments to adopt regulations designed to protect historic properties or historic districts.".

Floor Amendment No. 1 to **HB 854**, by Representative Gray:

On Page 1, after line 14, by inserting and underlining the following new subsection,

"*(3) The provisions of this section shall not apply to approved on-site wastewater or sewage disposal systems.*"; and

On Page 2, line 15, after "*system*", by inserting and underlining, "*, when no approved on-site wastewater or sewage disposal system is available,*"; and

On Page 2, line 19, after "*connection*", by inserting and underlining, "*as required by subsection (1) of this section*".

Floor Amendment No. 2 to the Committee Substitute to **HB 556**, by Representative J. Turner:

On page 3, line 17, after "*corridor*", insert "*one hundred (100) to*".

Floor Amendment No. 1 to the Committee Substitute to **HB 243**, by Representative Gooch:

On page 2, after line 19 but before line 20 by inserting the following:

"Section 2. KRS 141.050 is amended to read as follows:

(1) Except to the extent required by differences between this chapter and its application and the federal income tax law and its application, the administrative and judicial interpretations of the federal income tax law, computations of gross income and deductions therefrom, accounting methods, and accounting procedures, for purposes of this chapter shall be as nearly as practicable identical with those required for federal income tax purposes. *Changes to federal income tax law made after the Internal Revenue Code reference date contained in KRS 141.010(3) shall not apply for purposes of this chapter unless adopted by the General Assembly.*

(2) Every person subject to the provisions of this chapter shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations as the cabinet from time to time may prescribe. Whenever the cabinet judges it necessary, it may require such person, by notice served upon him, to make a return, render under oath such statements, or keep such records, as the cabinet deems sufficient to show whether or not such person is liable for tax, and the extent of such liability.

(3) The secretary or his authorized agent or representative, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any taxpayers, may require the attendance of the taxpayer or of any other person having knowledge in the premises.

(4) The cabinet shall prescribe the forms and reports necessary to the proper administration of any and all provisions of this chapter, and shall promulgate such rules and regulations necessary to effectively carry out the provisions of this chapter."; and

On page 2, line 20, by deleting "Section 2." and inserting in lieu thereof "Section 3." and after "in" by inserting "Section 1 of".

Floor Amendment No. 3 to **SB 139**, by Representative Nesler:

On page 9, line 24, by deleting "*one million dollars ($1,000,000)*" and inserting "*two hundred fifty thousand dollars ($250,000)*" in lieu thereof.

Floor Amendment No. 4 to the Committee Substitute to **HB 668**, by Representative Palumbo:

On page 16, lines 14 through 17, by deleting the lines in their entirety and inserting the following in lieu thereof:

"*(5) An insurance company, insurance agent, or adjuster licensed under KRS Chapter 304 and authorized to do business in Kentucky performing investigative duties limited to matters strictly pertaining to an insurance transaction. However, any independent adjuster or investigator not licensed pursuant to KRS Chapter 304 and retained by an insurance company to investigate the cause and origin of a fire or explosion shall be licensed in accordance with the provisions of this chapter; or*"

Floor Amendment No. 5 to the Committee Substitute to **HB 668**, by Representative Palumbo:

On page 16, lines 14 through 17, by deleting the lines in their entirety and inserting the following in lieu thereof:

"*(5) An insurance company, insurance agent, or adjuster licensed under KRS Chapter 304 and authorized to do business in Kentucky performing investigative duties limited to matters strictly pertaining to an insurance transaction. However, any independent adjuster or investigator not licensed pursuant to KRS Chapter 304 and retained by an insurance company to investigate the cause and origin of a fire or explosion shall be licensed in accordance with the provisions of this chapter; or*"

Floor Amendment No. 2 Title to **SB 192**, by Representative Treesh:

Change title to read "AN ACT relating to the Education Professional Standards Board.".

Floor Amendment No. 4 to **SB 139**, by Representative Nesler:

On page 9, between lines 26 and 27, by inserting the following new paragraph:

"*Private investigators who limit their practice exclusively to working under the supervision of an attorney who is licensed to practice law in this state are exempted from the requirement of this paragraph.*".

Floor Amendment No. 1 to **SB 211**, by Representative Treesh:

On page 3, after line 16, by inserting:

"Section 2. KRS 161.017 is amended to read as follows:

(1) The Education Professional Standards Board, established in KRS 161.028, shall be headed by an executive director who shall be responsible for the day to day operations of the board including the following:

 (a) Setting up appropriate organizational structures and personnel policies for approval by the board;
 (b) Appointing all staff, including the deputy executive director;
 (c) Preparing annual reports on the board's program of work;
 (d) Carrying out policy and program directives of the board;
 (e) Preparing and submitting to the board for its approval a proposed biennial budget; and
 (f) Performing all other duties and responsibilities assigned by state law.

(2) When it is necessary to fill the position of executive director, the board shall conduct a comprehensive search for candidates and may employ a search firm if the board deems it necessary. The executive director shall possess broad-based experience in education and teacher development, and have demonstrated leadership skills in addition to other qualifications to be established by the board as authorized in KRS 161.028.

(3) With approval of the board, the executive director may enter into agreements with any state agency or political subdivision of the state, any postsecondary education institution, or any other person or entity to enlist assistance to implement the duties and responsibilities of the board.

(4) The executive director shall have access to the papers, books, and records of education personnel as a part of an inquiry or investigation relating to disciplinary actions against a certified employee.

(5) Pursuant to KRS 161.120, the executive director, on behalf of the board, may issue administrative subpoenas for the attendance of witnesses and the production of documents relevant to disciplinary cases under consideration.

Compliance with the subpoenas shall be enforceable by the Circuit Court in Franklin County.

Section 3. KRS 161.028 is amended to read as follows:

(1) The Education Professional Standards Board is recognized to be a public body corporate and politic and an agency and instrumentality of the Commonwealth, in the performance of essential governmental functions. The Education Professional Standards Board has the authority and responsibility to:

- (a) Establish standards and requirements for obtaining and maintaining a teaching certificate;
- (b) Set standards for, approve, and evaluate college, university, and school district programs for the preparation of teachers and other professional school personnel. Program standards shall reflect national standards and shall address, at a minimum, the following:
  - 1. The alignment of programs with the state's core content for assessment as defined in KRS 158.6457;
  - 2. Research-based classroom practices, including effective classroom management techniques;
  - 3. Emphasis on subject matter competency of teacher education students;
  - 4. Methodologies to meet diverse educational needs of all students;
  - 5. The consistency and quality of classroom and field experiences, including early practicums and student teaching experiences;
  - 6. The amount of college-wide or university-wide involvement and support during the preparation as well as the induction of new teachers;
  - 7. The diversity of faculty;
  - 8. The effectiveness of partnerships with local school districts; and
  - 9. The performance of graduates on various measures as determined by the board.
- (c) Conduct an annual review of diversity in teacher preparation programs;
- (d) Provide assistance to universities and colleges in addressing diversity, which may include researching successful strategies and disseminating the information, encouraging the development of nontraditional avenues of recruitment and providing incentives, waiving administrative regulations when needed, and other assistance as deemed necessary;
- (e) Discontinue approval of programs that do not meet standards or whose graduates do not perform according to criteria set by the board;
- (f) Issue, renew, revoke, suspend, or refuse to issue or renew; impose probationary or supervisory conditions upon; issue a written reprimand or admonishment; or any combination of actions regarding any certificate;
- (g) Develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by an employee certified by the Education Professional Standards Board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure the process does not revictimize the alleged victim or cause harm if an employee is falsely accused;
- (h) Receive, along with investigators hired by the Education Professional Standards Board, training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedures in sex offense cases, and effective intervention with victims and offenders;
- (i) Recommend to the Kentucky Board of Education the essential data elements relating to teacher preparation and certification, teacher supply and demand, teacher attrition, teacher diversity, and employment trends to be included in a state comprehensive data and information system and report the recommendations to the Interim Joint Committee on Education;
- (j) Submit reports to the Governor and the Legislative Research Commission and inform the public on the status of teaching in Kentucky;
- (k) Devise a credentialing system that provides alternative routes to gaining certification and greater flexibility in staffing local schools while maintaining standards for teacher competence;
- (l) Develop a professional code of ethics;
- (m) Set the qualifications and salary for the positions of executive director and deputy executive director to the board, notwithstanding the provisions of KRS 64.640;
- (n) Recruit, select, employ and evaluate the executive director to the board;
- (o) Approve employment procedures for the employment of policy level staff, subject to the provisions of KRS 12.050;
- (p) Approve the biennial budget request;
- (q) Charge reasonable fees for the issuance, reissuance, and renewal of certificates that are established by administrative regulation. The proceeds shall be used to meet a portion of the costs of the issuance, reissuance, and

renewal of certificates, and the costs associated with ***disciplinary action against a certificate holder under KRS 161.120***[~~revoking certificates~~];

(r) Waive a requirement that may be established in an administrative regulation promulgated by the board. A request for a waiver shall be submitted to the board, in writing, by an applicant for certification, a postsecondary institution, or a superintendent of a local school district, with appropriate justification for the waiver. The board may approve the request if the person or institution seeking the waiver has demonstrated extraordinary circumstances justifying the waiver. Any waiver granted under this subsection shall be subject to revocation if the person or institution falsifies information or subsequently fails to meet the intent of the waiver;

(s) Promote the development of one (1) or more innovative, nontraditional or alternative administrator or teacher preparation programs through public or private colleges or universities, private contractors, the Department of Education, or the Kentucky Commonwealth Virtual University and waive administrative regulations if needed in order to implement the program;

(t) Grant approval, if appropriate, of a university's request for an alternative program that enrolls students in a postbaccalaureate teacher preparation program concurrently with employment as a teacher in a local school district. A student in the alternative program shall be granted a temporary provisional certificate and shall be a candidate in the Kentucky Teacher Internship Program, notwithstanding provisions of KRS 161.030. The temporary certificate shall be valid for a maximum of two (2) years, and shall be contingent upon the candidate's continued enrollment in the preparation program and compliance with all requirements established by the board. A professional certificate shall be issued upon the teacher candidate's successful completion of the program, the internship requirements, and all assessments required by the board;

(u) Grant approval, if appropriate, of a university's request for an alternative program that enrolls an administrator candidate in a postbaccalaureate administrator preparation program concurrently with employment as an assistant principal, principal, assistant superintendent, or superintendent in a local school district. An administrator candidate in the alternative program shall be granted a temporary provisional certificate and shall be a candidate in the Kentucky Principal Internship Program, notwithstanding provisions of KRS 161.030, or the Superintendent's Assessment process, notwithstanding provisions of KRS 156.111, as appropriate. The temporary certificate shall be valid for a maximum of two (2) years, and shall be contingent upon the candidate's continued enrollment in the preparation program and compliance with all requirements established by the board. A professional certificate shall be issued upon the candidate's successful completion of the program, internship requirements, and assessments as required by the board;

(v) Employ consultants as needed;

(w) Enter into contracts***. Disbursements to professional educators who receive less than one thousand dollars ($1,000) in compensation per fiscal year from the board for serving on an assessment validation panel or as a test scorer or proctor shall not be subject to KRS 45A.690 to KRS 45A.725***;

(x) Sponsor studies, conduct research, conduct conferences, and publish information as appropriate; and

(y) Issue orders as necessary in any administrative action before the board.

(2) (a) The board shall be composed of seventeen (17) members. The chief state school officer and the president of the Council on Postsecondary Education, or their designees, shall serve as ex officio voting members. The Governor shall make the following fifteen (15) appointments:

1. Nine (9) members who shall be teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational classrooms;
2. Two (2) members who shall be school administrators, one (1) of whom shall be a school principal;
3. One (1) member representative of local boards of education; and
4. Three (3) members representative of postsecondary institutions, two (2) of whom shall be deans of colleges of education at public universities and one (1) of whom shall be the chief academic officer of an independent not-for-profit college or university.

(b) The members appointed by the Governor after June 21, 2001, shall be confirmed by the Senate and the House of Representatives under KRS 11.160. If the General Assembly is not in session at the time of the appointment, persons appointed shall serve prior to confirmation, but the Governor shall seek the consent of the General Assembly at the next regular session or at an intervening extraordinary session if the matter is included in the call of the General Assembly.

(c) A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs. A member shall continue to serve until his successor is named. Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he was appointed shall no longer be eligible to serve in that position.

(d) Members of the board shall serve without compensation but shall be permitted to attend board meetings and perform other board business without loss of income or other benefits.

(e) A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from his employment while performing board business shall be reimbursed by the board for the actual amount of any costs incurred.

(f) A chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chairman. The executive ***director***[~~secretary~~] shall keep records of proceedings. Regular meetings shall be held at least semiannually on call of the chairman.[~~ The Department of Education shall provide staff and support for the board.~~]

(g) To carry out the functions relating to its duties and responsibilities, the board is empowered to receive donations and grants of funds; to appoint consultants as needed; and to sponsor studies, conduct conferences, and publish information.".

Floor Amendment No. 2 Title to **SB 211**, by Representative Treesh:

Change title to "AN ACT relating to teachers.".

Floor Amendment No. 1 to **SB 192**, by Representative Treesh:

On page 7, between lines 23 and 24, by inserting the following:

"Section 2. KRS 161.017 is amended to read as follows:

(1) The Education Professional Standards Board, established in KRS 161.028, shall be headed by an executive director who shall be responsible for the day to day operations of the board including the following:

(a) Setting up appropriate organizational structures and personnel policies for approval by the board;

(b) Appointing all staff, including the deputy executive director;

(c) Preparing annual reports on the board's program of work;

(d) Carrying out policy and program directives of the board;

(e) Preparing and submitting to the board for its approval a proposed biennial budget; and

(f) Performing all other duties and responsibilities assigned by state law.

(2) When it is necessary to fill the position of executive director, the board shall conduct a comprehensive search for candidates and may employ a search firm if the board deems it necessary. The executive director shall possess broad-based experience in education and teacher development, and have demonstrated leadership skills in addition to other qualifications to be established by the board as authorized in KRS 161.028.

(3) With approval of the board, the executive director may enter into agreements with any state agency or political subdivision of the state, any postsecondary education institution, or any other person or entity to enlist assistance to implement the duties and responsibilities of the board.

(4) The executive director shall have access to the papers, books, and records of education personnel as part of an inquiry or investigation relating to disciplinary actions against a certified employee.

(5) Pursuant to KRS 161.120, the executive director, on behalf of the board, may issue administrative subpoenas for the attendance of witnesses and the production of documents relevant to disciplinary cases under consideration. Compliance with the subpoenas shall be enforceable by the Circuit Court in Franklin County.

Section 3. KRS 161.028 is amended to read as follows:

(1) The Education Professional Standards Board is recognized to be a public body corporate and politic and an agency and instrumentality of the Commonwealth, in the performance of essential governmental functions. The Education Professional Standards Board has the authority and responsibility to:

(a) Establish standards and requirements for obtaining and maintaining a teaching certificate;

(b) Set standards for, approve, and evaluate college, university, and school district programs for the preparation of teachers and other professional school personnel. Program standards shall reflect national standards and shall address, at a minimum, the following:

1. The alignment of programs with the state's core content for assessment as defined in KRS 158.6457;
2. Research-based classroom practices, including effective classroom management techniques;
3. Emphasis on subject matter competency of teacher education students;
4. Methodologies to meet diverse educational needs of all students;
5. The consistency and quality of classroom and field experiences, including early practicums and student teaching experiences;
6. The amount of college-wide or university-wide involvement and support during the preparation as well as

the induction of new teachers;

7. The diversity of faculty;

8. The effectiveness of partnerships with local school districts; and

9. The performance of graduates on various measures as determined by the board.

(c) Conduct an annual review of diversity in teacher preparation programs;

(d) Provide assistance to universities and colleges in addressing diversity, which may include researching successful strategies and disseminating the information, encouraging the development of nontraditional avenues of recruitment and providing incentives, waiving administrative regulations when needed, and other assistance as deemed necessary;

(e) Discontinue approval of programs that do not meet standards or whose graduates do not perform according to criteria set by the board;

(f) Issue, renew, revoke, suspend, or refuse to issue or renew; impose probationary or supervisory conditions upon; issue a written reprimand or admonishment; or any combination of actions regarding any certificate;

(g) Develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by an employee certified by the Education Professional Standards Board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure the process does not revictimize the alleged victim or cause harm if an employee is falsely accused;

(h) Receive, along with investigators hired by the Education Professional Standards Board, training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedures in sex offense cases, and effective intervention with victims and offenders;

(i) Recommend to the Kentucky Board of Education the essential data elements relating to teacher preparation and certification, teacher supply and demand, teacher attrition, teacher diversity, and employment trends to be included in a state comprehensive data and information system and report the recommendations to the Interim Joint Committee on Education;

(j) Submit reports to the Governor and the Legislative Research Commission and inform the public on the status of teaching in Kentucky;

(k) Devise a credentialing system that provides alternative routes to gaining certification and greater flexibility in staffing local schools while maintaining standards for teacher competence;

(l) Develop a professional code of ethics;

(m) Set the qualifications and salary for the positions of executive director and deputy executive director to the board, notwithstanding the provisions of KRS 64.640;

(n) Recruit, select, employ and evaluate the executive director to the board;

(o) Approve employment procedures for the employment of policy level staff, subject to the provisions of KRS 12.050;

(p) Approve the biennial budget request;

(q) Charge reasonable fees for the issuance, reissuance, and renewal of certificates that are established by administrative regulation. The proceeds shall be used to meet a portion of the costs of the issuance, reissuance, and renewal of certificates, and the costs associated with ***disciplinary action against a certificate holder under KRS 161.120***[~~revoking certificates~~];

(r) Waive a requirement that may be established in an administrative regulation promulgated by the board. A request for a waiver shall be submitted to the board, in writing, by an applicant for certification, a postsecondary institution, or a superintendent of a local school district, with appropriate justification for the waiver. The board may approve the request if the person or institution seeking the waiver has demonstrated extraordinary circumstances justifying the waiver. Any waiver granted under this subsection shall be subject to revocation if the person or institution falsifies information or subsequently fails to meet the intent of the waiver;

(s) Promote the development of one (1) or more innovative, nontraditional or alternative administrator or teacher preparation programs through public or private colleges or universities, private contractors, the Department of Education, or the Kentucky Commonwealth Virtual University and waive administrative regulations if needed in order to implement the program;

(t) Grant approval, if appropriate, of a university's request for an alternative program that enrolls students in a postbaccalaureate teacher preparation program concurrently with employment as a teacher in a local school district. A student in the alternative program shall be granted a temporary provisional certificate and shall be a candidate in the Kentucky Teacher Internship Program, notwithstanding provisions of KRS 161.030. The temporary certificate shall be valid for a maximum of two (2) years, and shall be contingent upon the candidate's continued enrollment in the preparation program and compliance with all requirements established by the board. A professional certificate shall be issued upon the teacher candidate's successful completion of the program, the internship requirements, and all assessments required by the board;

(u) Grant approval, if appropriate, of a university's request for an alternative program that enrolls an administrator candidate in a postbaccalaureate administrator preparation program concurrently with employment as an assistant principal, principal, assistant superintendent, or superintendent in a local school district. An administrator candidate in the alternative program shall be granted a temporary provisional certificate and shall be a candidate in the Kentucky Principal Internship Program, notwithstanding provisions of KRS 161.030, or the Superintendent's Assessment process, notwithstanding provisions of KRS 156.111, as appropriate. The temporary certificate shall be valid for a maximum of two (2) years, and shall be contingent upon the candidate's continued enrollment in the preparation program and compliance with all requirements established by the board. A professional certificate shall be issued upon the candidate's successful completion of the program, internship requirements, and assessments as required by the board;

(v) Employ consultants as needed;

(w) Enter into contracts***. Disbursements to professional educators who receive less than one thousand dollars ($1,000) in compensation per fiscal year from the board for serving on an assessment validation panel or as a test scorer or proctor shall not be subject to KRS 45A.690 to 45A.725***;

(x) Sponsor studies, conduct research, conduct conferences, and publish information as appropriate; and

(y) Issue orders as necessary in any administrative action before the board.

(2) (a) The board shall be composed of seventeen (17) members. The chief state school officer and the president of the Council on Postsecondary Education, or their designees, shall serve as ex officio voting members. The Governor shall make the following fifteen (15) appointments:

1. Nine (9) members who shall be teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational classrooms;
2. Two (2) members who shall be school administrators, one (1) of whom shall be a school principal;
3. One (1) member representative of local boards of education; and
4. Three (3) members representative of postsecondary institutions, two (2) of whom shall be deans of colleges of education at public universities and one (1) of whom shall be the chief academic officer of an independent not-for-profit college or university.

(b) The members appointed by the Governor after June 21, 2001, shall be confirmed by the Senate and the House of Representatives under KRS 11.160. If the General Assembly is not in session at the time of the appointment, persons appointed shall serve prior to confirmation, but the Governor shall seek the consent of the General Assembly at the next regular session or at an intervening extraordinary session if the matter is included in the call of the General Assembly.

(c) A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs. A member shall continue to serve until his successor is named. Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he was appointed shall no longer be eligible to serve in that position.

(d) Members of the board shall serve without compensation but shall be permitted to attend board meetings and perform other board business without loss of income or other benefits.

(e) A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from his employment while performing board business shall be reimbursed by the board for the actual amount of any costs incurred.

(f) A chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chairman. The executive ***director***~~[secretary]~~ shall keep records of proceedings. Regular meetings shall be held at least semiannually on call of the chairman.~~[The Department of Education shall provide staff and support for the board.]~~

(g) To carry out the functions relating to its duties and responsibilities, the board is empowered to receive donations and grants of funds; to appoint consultants as needed; and to sponsor studies, conduct conferences, and publish information."; and

On page 7, line 24, by changing "2." to "4.".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 76, Representative Hoffman

HB 184, Representative McKee

HB 405, Representatives Colter

HB 426, Representatives Buckingham and McKee

HB 519, Representatives Kerr and Colter

HB 542, Representatives Colter, Comer, and Smith

HB 614, Representative C. Belcher

HB 652, Representatives Colter, Hoffman, and Westrom

HB 846, Representative Colter

HCR 129, Representative Crall.

Representative Sims moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Sims moved that her vote be changed from "nay" to "yea" on **HB 739**. Agreed.

Announcements

The following meetings were announced:

Licensing and Occupations: Monday, March 18, 2002, 2:00 p.m., Room 149

Adjournment

Representative Stumbo moved that the House adjourn until 9:00 a.m. on Friday, March 15, 2002.

The motion that the House adjourn until 9:00 a.m., Friday, March 15, 2002, was adopted by voice vote.

FRIDAY, MARCH 15, 2002

FORTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Larry Bowald, Cynthiana Presbyterian Church, Cynthiana, KY.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Branham and Coleman.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Thursday, March 14, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 154, SB 156, SB 193, SB 195, SB 222, SB 223, SB 229, SB 234, HB 171, HB 369, HB 474,** and **HB 728**.

Message received in regard to **HB 470**: The Senate has passed **HB 470**, by way of Senate Committee Substitute with the following Senate Floor Amendment No. 4 and Senate Floor Amendment No. 6 Title and respectfully requests concurrence of this Honorable Body. (Time: 9:10 a.m.)

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Education: **SB 210, SCR 142**

Health and Welfare: **HCR 239, SB 219**

Judiciary: **SB 227**

State Government: **HCR 242**

Transportation: **SB 255, SJR 113**

House Floor: **HR 237, 238, 240, 241**

Report of Committees

The Committee on Rules reported that **HB 680, HB 729, HJR 189, HJR 205, SB 141, SB 169, SJR 3, SJR 24, SJR 42,** and **SCR 76** have been posted for passage in the Orders of the Day for March 18, 2002.

Calendar

HB 819, SB 113, SB 142, SB 185, SB 196, HB 867, HCR 161, HJR 181, HJR 212, SB 36, HB 779, HB 838, HB 839, HB 852, HB 854, SB 66, SB 101, SB 197, HB 841, SB 134, HB 855, HJR 210, HCR 226, SB 13, and **SB 179** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Stumbo moved to suspend the rules to allow for a Rules Committee Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 444, HB 748, HB 819, HB 839, HB 852, HB 855, HB 867, HCR 161, HJR 181, HJR 210, HJR 212,** and **SB 196** have been posted for passage in the Orders of the Day for March 18, 2002.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriation and Revenue: **SB 38, SB 152**

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 171, HB 369, HB 474, HB 728,** and **SB 89** were delivered to the Senate and signed by the President. Delivered to the Governor on March 15, 2002, at 9:40 a.m.

Orders of the Day

HB 280 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crall moved that **HB 280** be passed.

On the roll call the vote was: **Yeas 90, Nays 0**. (See March 15, 2002, roll call on **HB 280** - Appendix.)

HB 280 was passed and the title agreed to.

Representative Crall moved that the vote by which **HB 280** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 281, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crall moved the adoption of Committee Amendment No. 1 to **HB 281**. Agreed.

Representative Crall moved that **HB 281**, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 15, 2002, roll call on **HB 281** - Appendix.)

HB 281, as amended, was passed and the title agreed to.

Representative Crall moved that the vote by which **HB 281**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 668, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of the Committee Substitute to **HB 668**. Agreed.

Representative Palumbo moved the adoption of Floor Amendment No. 2 to **HB 668**. Agreed.

Representative Palumbo moved the adoption of Floor Amendment No. 5 to **HB 668**. Agreed.

Representative Palumbo moved that **HB 668**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 15, 2002, roll call on **HB 668** - Appendix.)

HB 668, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 668**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 701, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of the Committee Substitute to **HB 701**. Agreed.

Representative Callahan moved that **HB 701**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 15, 2002, roll call on **HB 701** - Appendix.)

HB 701, by way of Committee Substitute, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 701**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 777 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HB 777** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 15, 2002, roll call on **HB 777** - Appendix.)

HB 777 was passed and the title agreed to.

Representative Adkins moved that the vote by which **HB 777** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 178 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved that **HJR 178** be adopted.

On the roll call the vote was: **Yeas 86, Nays 0**. (See March 15, 2002, roll call on **HJR 178** - Appendix.)

HJR 178 was adopted.

Representative Gooch moved that the vote by which **HJR 178** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 192, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved the adoption of Committee Amendment No. 1 to **HCR 192**. Agreed.

Representative Cherry moved that **HCR 192,** as amended, be adopted.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 15, 2002, roll call on **HCR 192** - Appendix.)

HCR 192 was adopted as amended.

Representative Cherry moved that the vote by which **HCR 192**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 199 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HCR 199** be adopted.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 15, 2002, roll call on **HCR 199** - Appendix.)

HCR 199 was adopted.

Representative Palumbo moved that the vote by which **HCR 199** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 211 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 211** be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 15, 2002, roll call on **HB 211** - Appendix.)

HB 211 was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 211** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 243, with Committee Substitute, Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved the adoption of the Committee Substitute to **HB 243**. Agreed.

Representative Gooch moved the adoption of Floor Amendment No. 1 to **HB 668**. Agreed.

Representative Gooch moved that **HB 243**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 89, Nays 7**. (See March 15, 2002, roll call on **HB 243** - Appendix.)

HB 243, by way of Committee Substitute, as amended, was passed.

Representative Gooch moved the adoption of Committee Amendment No. 1 Title to **HB 243**. Agreed.

Representative Gooch moved that the vote by which **HB 243**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 171, HB 369, HB 474,** and **HB 728** were delivered to the Senate and signed by the President. Delivered to the Governor on March 15, 2002, at 10:49 a.m.

Orders of the Day (Continued)

HB 707, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved the adoption of Committee Amendment No. 1 to **HB 707**. Agreed.

Representative Stacy moved the adoption of Floor Amendment No. 1 to **HB 707**. Agreed.

Representative Stacy moved that **HB 707**, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 15, 2002, roll call on **HB 707** - Appendix.)

HB 707, as amended, was passed and the title agreed to.

Representative Stacy moved that the vote by which **HB 707**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 721, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved the adoption of Committee Amendment No. 1 to **HB 721**. Agreed.

Representative Riggs moved that **HB 721**, as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 15, 2002, roll call on **HB 721** - Appendix.)

HB 721, as amended, was passed and the title agreed to.

Representative Riggs moved that the vote by which **HB 721**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 757 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nelson moved that **HB 757** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 15, 2002, roll call on **HB 757** - Appendix.)

HB 757 was passed and the title agreed to.

Representative Nelson moved that the vote by which **HB 757** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 763, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved the adoption of the Committee Substitute to **HB 763**. Agreed.

Representative Westrom moved that **HB 763**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 15, 2002, roll call on **HB 763** - Appendix.)

HB 763, by way of Committee Substitute, was passed and the title agreed to.

Representative Westrom moved that the vote by which **HB 763**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 801, with Committee Substitute, Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HB 801**. Agreed.

Representative Thomas moved the adoption of Floor Amendment No. 1 to **HB 801**. Agreed.

Representative Geveden moved that **HB 801**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 15, 2002, roll call on **HB 801** - Appendix.)

HB 801, by way of Committee Substitute, as amended, was passed.

Representative Geveden moved the adoption of Committee Amendment No. 1 Title to **HB 801**. Agreed.

Representative Geveden moved that the vote by which **HB 801**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 857 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved that **HB 857** be passed.

On the roll call the vote was: **Yeas 88, Nays 0**. (See March 15, 2002, roll call on **HB 857** - Appendix.)

HB 857 was passed and the title agreed to.

Representative Riner moved that the vote by which **HB 857** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 556, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hall moved the adoption of the Committee Substitute to **HB 556**. Agreed.

Representative Turner moved the adoption of Floor Amendment No. 2 to **HB 556**. Agreed.

Representative Hall moved that **HB 556**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 1**. (See March 15, 2002, roll call on **HB 556** - Appendix.)

HB 556, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Hall moved that the vote by which **HB 556**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 734 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marcotte moved that **HB 734** be passed.

On the roll call the vote was: **Yeas 88, Nays 0**. (See March 15, 2002, roll call on **HB 734** - Appendix.)

HB 734 was passed and the title agreed to.

Representative Marcotte moved that the vote by which **HB 734** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 798, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Childers moved the adoption of Committee Amendment No. 1 to **HB 798**. Agreed.

Representative Childers moved that **HB 798**, as amended, be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 15, 2002, roll call on **HB 798** - Appendix.)

HB 798, as amended, was passed and the title agreed to.

Representative Childers moved that the vote by which **HB 798**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 811, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of the Committee Substitute to **HB 811**. Agreed.

Representative Thomas moved that **HB 811**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 87, Nays 0**. (See March 15, 2002, roll call on **HB 811** - Appendix.)

HB 811, by way of Committee Substitute, was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 811** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 873, with Committee Substitute, Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved the adoption of the Committee Substitute to **HB 873**. Agreed.

Representative Riner moved that **HB 873**, by way of Committee Substitute, be passed.

Representative Rasche moved the adoption of Floor Amendment No. 1 to **HB 873**. Agreed.

Representative Riner moved that **HB 873**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 90, Nays 0**. (See March 15, 2002, roll call on **HB 873** - Appendix.)

HB 873, by way of Committee Substitute, as amended, was passed.

Representative Riner moved the adoption of Committee Amendment No. 1 Title to **HB 873**. Agreed.

Representative Riner moved that the vote by which **HB 873**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that the rules be suspended for the introduction of bills and resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HR 243, by Representatives J. Lee, Weaver, Moberly, L. Clark, Thompson, L. Belcher, Dw. Butler, Haydon, R. Adams, Allen, and Nunn: A RESOLUTION urging the Hyundai Motor Company to locate its first North American production facility in the Commonwealth of Kentucky.

HCR 244, by Representative Pullin: A CONCURRENT RESOLUTION directing the Interim joint Committee on Agriculture and Natural Resources to study issues concerning the competitiveness of Kentucky coal in the generation of electricity.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 568, HB 677, HB 865, SB 132, SB 25, SB 239**

Natural Resources: **SB 194, SCR 49**

Licensing and Occupations: **SB 123**

Labor and Industry: **HCR 130**

Motions, Petitions, and Communications (Continued)

Representative Graham moved to suspend the rules to act on a Resolution. Agreed.

Representative Graham moved the adoption of the following **HR 237**:

HR 237, A RESOLUTION adjourning the House of Representatives in loving memory and honor of John E. Monarch III.

With deepest respect and admiration, we pay homage and tribute to John E. Monarch III, and we pause in silent reverence for his soul.

WHEREAS, John E. Monarch III was born on July 10, 1932, a native of Breckinridge County, Kentucky, and he traversed these earthly bounds on March 9, 2002; and

WHEREAS, John E. Monarch III was the loving son of Garnett Monarch and the late John E. Monarch II, he was the devoted husband of Martha M. Monarch, he was the loving father of a daughter, Lisa Monarch-Jennings, and three sons, John Bruce Monarch, David Alan Monarch, and Thomas Edward Monarch, he was the proud grandfather of five grandchildren, and he was a loving brother to Alice Monarch Rogers; and

WHEREAS, John E. Monarch III was a graduate of the University of Kentucky, he was a registered professional engineer and land surveyor, and he was retired from the state Department of Transportation; and

WHEREAS, John E. Monarch III was an active and involved citizen in the Franklin County community where he was a devout member and participant in the Good Shepherd Catholic Church; he was a member of the Frankfort Optimist and Kiwanis clubs, an active member of the National Federation of the Blind, a member of the Bureau of the Blind, and a member of the National Organization for Retired Persons; and he also was a member of the Honorable Order of Kentucky Colonels; and

WHEREAS, John E. Monarch III served his country with honor and distinction in the United States Air Force, where he was stationed at various bases around the country, and he was a member of the United States Air Force Reserve Officers Association; and

WHEREAS, the passing of John E. Monarch III has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of John E. Monarch III, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of John E. Monarch III.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Martha M. Monarch, 525 Pawnee Trail, Frankfort, Kentucky 40601.

There being no objection **HR 237** was adopted.

Representative Jenkins moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Jenkins moved that she be recorded as voting "yea" on **HB 280, HB 281, HB 668, HB 701, HB 777, HJR 178, HCR 192,** and **HCR 199**. Agreed.

Representative Feeley moved that Floor Amendment No. 6 to **HB 68** be withdrawn. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Wilkey moved that he be recorded as voting "yea" on **HB 708** and **HB 211**. Agreed.

Representative Horlander moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Horlander moved that his vote be changed from "yea" to "nay" on **HB 598**. Agreed.

Representative Wayne moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Wayne moved that he be recorded as voting "yea" on **SB 70**. Agreed.

Representative Smith moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Smith moved that he be recorded as voting "yea" on **HJR 180**. Agreed.

Representative Adkins moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Adkins moved that he be recorded as voting "yea" on **HB 280**. Agreed.

Representative Fischer moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Fischer moved that he be recorded as voting "yea" on **HJR 180**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 811**. Agreed.

Representative Sims moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Sims moved that she be recorded as voting "yea" on **HB 211**. Agreed.

Representative C. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative C. Belcher moved that she be recorded as voting "yea" on **HB 811**. Agreed.

Representative Bowling moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bowling moved that his vote be changed from "yea" to "nay" on **HB 186**(vote recorded prior to bill being reported out of committee; bill never placed before the house for passage). Agreed.

Representative Bowling moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bowling moved that his vote be changed from "nay" to "yea" on **HB 188**. Agreed.

Representative Vincent moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Vincent moved that he be recorded as voting "nay" on **HB 657, HB 661,** and **SB 90**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HB 280, HB 281, HB 668, HB 701, HB 777, HB 211, HJR 178, HCR 192,** and **HCR 199**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **SB 41**, by Representative Treesh:

On page 4, line 23, after "policy" by inserting "*, including an explanation of any possible tax implications*".

Floor Amendment No. 1 Title to **HB 857**, by Representative Stein:

Amend the title to read as follows: "AN ACT relating to designations."

Floor Amendment No. 2 to **HB 857**, by Representative Stein:

On page 1, after line 4, by inserting the following:
"SECTION 2. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:
The song "Don't Come Home A-Drinkin' (with Lovin' on Your Mind)" is named and designated the official song of the Northern Kentucky Independent Health Department."

Floor Amendment No. 1 Title to **HB 819**, by Representative Nunn:

By amending the title to read as follows:
"AN ACT relating to prescription drugs for Kentucky's low income residents and Medicare beneficiaries.".

Floor Amendment No. 2 to the Committee Substitute to **HB 819**, by Representative Nunn:

On page 1, line 5, after "***coverage***" by inserting "***consistent with the provisions of Section 2 of this Act***"; and
On page 1, by deleting line 6; and
On page 1, line 7, by deleting "*(2)*" and inserting "*(1)*" in lieu thereof; and
On page 1, line 8, by deleting "*(3)*" and inserting "*(2)*" in lieu thereof; and
On page 1, line 10, by deleting "***Seniors***" and inserting "***Low Income Residents***" in lieu thereof; and
On page 1, line 12, by deleting "*(4)*" and inserting "*(3)*" in lieu thereof; and
On page 1, line 17, by deleting "***Seniors***" and inserting "***Low Income Residents***" in lieu thereof; and
On page 2, line 24, by deleting "***Seniors***" and inserting "***Low Income Residents***" in lieu thereof; and
On page 2, line 25, by deleting "***Section 2 of this Act***" and inserting "***this section***" in lieu thereof; and
On page 3, line 7, by deleting "***Seniors***" and inserting "***Low Income Residents***" in lieu thereof; and
On page 3, line 11, by deleting "***Seniors***" and inserting "***Low Income Residents***" in lieu thereof; and
On page 3, line 12, by deleting "***seniors***" and inserting "***low income residents***" in lieu thereof; and
On page 3, line 17, by deleting "***Seniors***" and inserting "***Low Income Residents***" in lieu thereof; and
On page 4, line 7, by deleting "***seniors***" and inserting "***low income residents***" in lieu thereof; and
On page 4, line 10, by deleting "***Seniors***" and inserting "***Low Income Residents***" in lieu thereof; and
On page 4, line 12, by deleting "***seniors***" and inserting "***low income residents***" in lieu thereof; and
On page 4, line 15, by deleting "***Seniors***" and inserting "***Low Income Residents***" in lieu thereof; and
On page 4, line 20, by deleting "Seniors" and inserting "Low Income Residents" in lieu thereof; and
On page 4, line 22, by deleting "Seniors" and inserting "Low Income Residents" in lieu thereof.

Floor Amendment No. 9 to the Committee Substitute to **SB 2**, by Representative Nunn:

On page 13, line 23, after "diagnoses;" by bracketing and striking through "and";

On page 14, line 1, after "efforts" by inserting "***; and***

(f) Recommend statutory, regulatory, and policy changes to improve access to mental health screening, evaluation, and treatment for juveniles in detention centers and for prisoners in all regional, county, and urban-county jails in Kentucky by July 15, 2003. The recommendations shall be developed with the assistance of the Kentucky Jailers Association and shall be sent to the Jail Standards Commission";

On page 22, after line 4, by inserting the following:

"Section 10. KRS 441.105 is amended to read as follows:

(1) The jailer shall:

(a)[~~(1)~~] Submit a quarterly report to the fiscal court concerning the physical condition of the jail, the number of jail personnel and personnel needs, and other matters requested by the fiscal court.

(b)[~~(2)~~] Submit a monthly report to the department, [~~on forms supplied by the department,~~]containing, but not limited to, the following information on each prisoner:

1.[~~(a)~~] The unit of government whose law the prisoner is charged with violating, the statute or ordinance the prisoner is charged with violating, and whether the charge is a felony or misdemeanor;

2.[~~(b)~~] The status of the prisoner, whether pending trial or post conviction;

3.[~~(c)~~] The age and sex of the prisoner; and

4.[~~(d)~~] The county responsible for the incarceration of the prisoner.

(c) Submit a monthly report to the department that provides:

1. The number of requests by a jailer for mental health evaluation or treatment by an individual or entity other than jail personnel; and

2. The number of mental health evaluations and incidences of mental health treatment provided by an individual or entity other than jail personnel.

(d) Provide a notice to the department within twenty-four (24) hours of an incident of apparent suicide or apparent attempted suicide of any prisoner.

(e) The information provided by a jailer under paragraphs (c) and (d) of subsection (1) of this section shall not include identifying information relating to any prisoner.

(2) The department shall consolidate the information contained in the reports required by subsection (1)(c) and (d) of this section and submit one (1) statewide report by September 1, 2003 and by September 1 each year thereafter that contains information on the provision of mental health services to prisoners and suicides and suicide attempts to the Department for Mental Health and Mental Retardation Services of the Cabinet for Health Services and to the Kentucky Commission on Services and Supports to Individuals with Mental Illness, Alcohol and Other Drug Disorders, and Dual Diagnoses.

Section 11. KRS 441.115 is amended to read as follows:

(1) For the purpose of raising the level of competence of jailers and jail personnel, the department shall maintain a jail staff training program to provide training for jailers and jail personnel consistent with the standards promulgated pursuant to KRS 441.055 and shall keep records of jailers and jail personnel who satisfactorily complete basic and annual continuing education. The training program shall include training on the human immunodeficiency virus infection and acquired immunodeficiency syndrome approved by the Cabinet for Health Services***, and mental health screening and suicide prevention***. A curriculum advisory committee composed of jailers, their representatives, and recognized professionals in the field of jail administration shall advise the department concerning the training needs of jailers and jail personnel. The jail staff training program shall be directed and staffed, in coordination with the Governmental Services Center at Kentucky State University, by knowledgeable persons who have sufficient experience, training, and education in jail operations. The department shall not charge a fee for training jailers, their deputies, or jailers-elect.

(2) Beginning in August, 1982, each jailer shall receive an expense allowance to help defray the costs of his participation in the jail staff training program. The expense allowance shall be in the amount of three hundred dollars ($300) per month payable out of the State Treasury. Expense allowance payments shall be discontinued if the jailer fails to satisfactorily complete annual continuing training. Expense allowance payments shall be resumed following a discontinuance for failure to satisfactorily complete basic or annual training only upon the jailer's satisfactory completion of the training.

(3) The allowance authorized in subsections (2) and (4) of this section shall be considered as operating expenses of the jailer's office and shall not be considered as part of his compensation. Jailers shall not be required to keep records verifying the expenditures from the allowance provided by the state.

(4) In order to receive the expense allowance for their first year in office, jailers who have been elected to office for the first time, shall, before taking office, successfully complete a training program designed for new jailers and conducted by the

personnel of the jail staff training program. This provision shall not apply if the jailer-elect is ill and unable to complete the training before taking office. In such cases, the jailer-elect shall successfully complete a new jailer training program during his first year in office in order to receive the expense allowance. The county or urban-county government in which the jailer-elect serves shall pay out of the jail budget, once he takes office, all necessary and reasonable travel expenses incurred by the jailer-elect in attending the new jailer training program.

(5) All jailers shall successfully complete the training required. If a jailer does not successfully complete the required training within the time specified, he shall not receive the expense allowance specified in subsection (2) of this section until he successfully completes the required training.

Section 12. KRS 441.055 is amended to read as follows:

(1) The Department of Corrections shall for those counties which elect to house state prisoners in their jail:

(a) Adopt the recommendations of the Jail Standards Commission created pursuant to Executive Order Number 81-1026 and promulgate regulations pursuant to KRS Chapter 13A establishing minimum standards for jails. These standards shall include, but not be limited to, rules governing the following areas:

1. Health and safety conditions;
2. Fire safety;
3. Jail operations, recordkeeping, and administration;
4. Curriculum of basic and continuing annual training for jailers and jail personnel, including ***mental health screening, suicide prevention, and*** training relating to juvenile holding facilities;
5. Custody, care, and treatment of prisoners;
6. Medical care***, including working agreements for mental health screening, evaluation, and treatment of prisoners***; and
7. Jail equipment, renovation, and construction;

(b) Develop a jail standards review process, which shall include the participation of persons knowledgeable of jail operations to review and amend the standards as necessary. The jail standards shall be reviewed no later than December 31, 1992, and at least every two (2) years thereafter. Fifty percent (50%) of the participants in the review process shall be appointed from persons representing county interests and fifty percent (50%) shall be appointed from persons representing state interests; and

(c) Provide technical assistance and consultation to local governments in order to facilitate compliance with standards.

(2) The department shall, for those counties that elect not to hold state prisoners in their jails, adopt the recommendations of the Jail Standards Commission and promulgate administrative regulations pursuant to KRS Chapter 13A to establish minimum standards for those jails. These standards shall be limited to health and life safety***, and working agreements for mental health screening, evaluation, and treatment***.

(3) The department may establish classifications of jails based on the maximum permissible period of incarceration or other criteria and promulgate standards for each class of jail.

Section 13. KRS 210.400 is amended to read as follows:

Subject to the provisions of this section and the policies and regulations of the secretary of the Cabinet for Health Services, each community mental health-mental retardation board shall:

(1) Review and evaluate mental health and mental retardation services provided pursuant to KRS 210.370 to 210.460, and report thereon to the secretary of the Cabinet for Health Services, the administrator of the program, and, when indicated, the public, together with recommendations for additional services and facilities;

(2) Recruit and promote local financial support for the program from private sources such as community chests, business, industrial and private foundations, voluntary agencies, and other lawful sources, and promote public support for municipal and county appropriations;

(3) Promote, arrange, and implement working agreements with other social service agencies, ***local and regional jails and detention facilities,*** both public and private, and with other educational and judicial agencies;

(4) Adopt and implement policies to stimulate effective community relations;

(5) Be responsible for the development and approval of an annual plan and budget;

(6) Act as the administrative authority of the community mental health and mental retardation program;, and

(7) Oversee and be responsible for the management of the community mental health and mental retardation program in accordance with the plan and budget adopted by the board and the policies and regulations issued under KRS 210.370 to 210.480 by the secretary of the Cabinet for Health Services.

Section 14. KRS 72.025 is amended to read as follows:

Coroners shall require a post-mortem examination to be performed in the following circumstances:

(1) When the death of a human being appears to be caused by homicide or violence;

(2) When the death of a human being appears to be the result of suicide;

(3) When the death of a human being appears to be the result of the presence of drugs or poisons in the body;

(4) When the death of a human being appears to be the result of a motor vehicle accident and the operator of the motor vehicle left the scene of the accident or the body was found in or near a roadway or railroad;

(5) ***(a)*** When the death of a human being occurs while the person is in a state mental institution or mental hospital when there is no previous medical history to explain the death, ***in which case a copy of the post-mortem examination report shall be sent to the Cabinet for Health Services;*** or

(b) While the person is in police custody, a jail or penal institution. ***When a death occurs in a jail, a copy of the post-mortem examination report shall be sent to the Department of Corrections of the Justice Cabinet***;

(6) When the death of a human being occurs in a motor vehicle accident and when an external examination of the body does not reveal a lethal traumatic injury;

(7) When the death of a human being appears to be the result of a fire or explosion;

(8) When the death of a child appears to indicate child abuse prior to the death;

(9) When the manner of death appears to be other than natural;

(10) When human skeletonized remains are found;

(11) When post-mortem decomposition of a human corpse exists to the extent that external examination of the corpse cannot rule out injury or where the circumstances of death cannot rule out the commission of a crime;

(12) When the death of a human being appears to be the result of drowning;

(13) When the death of an infant appears to be caused by sudden infant death syndrome in that the infant has no previous medical history to explain the death;

(14) When the death of a human being occurs as a result of an accident;

(15) When the death of a human being occurs under the age of forty (40) and there is no past medical history to explain the death;

(16) When the death of a human being occurs at the work site and there is no apparent cause of death such as an injury or when industrial toxics may have contributed to the cause of death;

(17) When the body is to be cremated and there is no past medical history to explain the death;

(18) When the death of a human being is sudden and unexplained; and

(19) When the death of a human being occurs and the decedent is not receiving treatment by a licensed physician and there is no ascertainable medical history to indicate the cause of death.

Section 15. If the 2003-2004 executive budget and accompanying memoranda provide duties for the Kentucky Commission on Services and Supports to Individuals with Mental Illness, Alcohol and Other Drug Disorders, and Dual Diagnoses relating to the provision of mental health services in jails, including juvenile detention centers, those provisions shall take precedence over subsection (3)(f) of Section 5 of this Act.".

Floor Amendment No. 1 to the Committee Substitute to **HB 435**, by Representative Kerr:

By deleting all language, beginning with the word "WHEREAS" on page 1, line 25, and continuing through the word "and" on page 1 line 27.

Floor Amendment No. 2 to the Committee Substitute to **HB 435**, by Representative Kerr:

By deleting all language beginning with "WHEREAS" on page 1, line 2, and continuing through and including the word "THEREFORE" on page 2 line 4; and

After the enacting clause, by inserting a new Section 1 as follows:

"Section 1. The General Assembly finds that independent and small motor fuel dealers are important to a healthy, competitive market and that certain marketing practices threaten both the small dealer and a competitive marketplace." and renumbering subsequent sections accordingly.

Floor Amendment No. 1 to **HB 812**, by Representative Moberly:

On page 4, after line 24 but before line 25 by inserting the following:

"Section 4. KRS 141.050 is amended to read as follows:

(1) Except to the extent required by differences between this chapter and its application and the federal income tax law and its application, the administrative and judicial interpretations of the federal income tax law, computations of gross income and

deductions therefrom, accounting methods, and accounting procedures, for purposes of this chapter shall be as nearly as practicable identical with those required for federal income tax purposes. ***Changes to federal income tax law made after the Internal Revenue Code reference date contained in KRS 141.010(3) shall not apply for purposes of this chapter unless adopted by the General Assembly.***

(2) Every person subject to the provisions of this chapter shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations as the cabinet from time to time may prescribe. Whenever the cabinet judges it necessary, it may require such person, by notice served upon him, to make a return, render under oath such statements, or keep such records, as the cabinet deems sufficient to show whether or not such person is liable for tax, and the extent of such liability.

(3) The secretary or his authorized agent or representative, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any taxpayers, may require the attendance of the taxpayer or of any other person having knowledge in the premises.

(4) The cabinet shall prescribe the forms and reports necessary to the proper administration of any and all provisions of this chapter, and shall promulgate such rules and regulations necessary to effectively carry out the provisions of this chapter."; and

On page 4, line 25, by deleting "Section 4." and inserting in lieu thereof "Section 5." and after "in" by inserting "Sections 1 to 3 of".

Floor Amendment No. 2 Title to **HB 812**, by Representative Moberly:

Amend title to read as follows: "AN ACT relating to revenue and taxation."

Floor Amendment No. 2 to **SB 196**, by Representative Barrows:

On page 2, after line 27, by inserting the following:

"Section 3. KRS 422.317 is amended to read as follows:

(1) Upon a patient's written request, a hospital licensed under KRS Chapter 216B or a health care provider shall provide, without charge to the patient, a copy of the patient's medical ***records including reports relating to any medical examination, test, or diagnostic procedure which was performed on the patient at the request or direction of a third party***[~~record~~]. A copying fee, not to exceed one dollar ($1) per page, may be charged by the health care provider for furnishing a second copy of the patient's medical ***records***[~~record~~] upon request either by the patient or the patient's attorney or the patient's authorized representative.

(2) The Department of Corrections shall not be considered as a health care provider under this section; however, the department may make[~~ medical~~] records ***covered in subsection (1) of this section*** of an individual inmate available to that individual inmate unless the department, through its designee, determines that the provision of the ***records***[~~record~~] is subject to the provisions of KRS 197.025.

(3) For purposes of this section, "patient" includes any person who is the subject of a medical examination, test, or diagnostic procedure, including any medical examinations, tests, or diagnostic procedures performed at the request or direction of a third party."

Floor Amendment No. 1 to the Committee Substitute to **HB 359**, by Representative Barrows:

On page 1 and 2, by deleting everything after the enacting clause and inserting in lieu thereof the following:

"Section 1. KRS 422.317 is amended to read as follows:

(1) Upon a patient's written request, a hospital licensed under KRS Chapter 216B or a health care provider shall provide, without charge to the patient, a copy of the patient's medical record. A copying fee, not to exceed one dollar ($1) per page, may be charged by the health care provider for furnishing a second copy of the patient's medical record upon request either by the patient or the patient's attorney or the patient's authorized representative.

(2) The Department of Corrections shall not be considered as a health care provider under this section; however, the department may make medical records of an individual inmate available to that individual inmate unless the department, through its designee, determines that the provision of the record is subject to the provisions of KRS 197.025.

(3) For purposes of this section, "patient" includes any person who is the subject of a medical examination, test, or diagnostic procedure, including any medical examinations, tests, or diagnostic procedures performed at the request or direction of a third party."

Floor Amendment No. 1 to **SB 101**, by Representative A. Arnold:

On page 2 after line 13 by adding the following:

"Section 3. KRS 61.315 is amended to read as follows:

(1) As used in this section, "police officer" means every paid police officer, sheriff, or deputy sheriff, corrections employee with the power of a peace officer pursuant to KRS 196.037, any auxiliary police officer appointed pursuant to KRS 95.445, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, elected to office, or employed by any county, airport board created pursuant to KRS Chapter 183, city, or by the state; "firefighter" means every paid firefighter or volunteer firefighter who is employed by or volunteers his services to the state, airport board created pursuant to KRS Chapter 183, any county, city, fire district, or any other organized fire department recognized, pursuant to KRS 95A.262, as a fire department operated and maintained on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth ***and shall include qualified civilian firefighters employed at Kentucky-based military installations***.~~[If death benefits are paid under KRS 61.316 to eligible survivors of a volunteer firefighter, then no benefits shall be paid to those survivors under this section.]~~

(2) The spouse of any police officer, sheriff, deputy sheriff, corrections employee with the power of a peace officer pursuant to KRS 196.037, any auxiliary police officer appointed pursuant to KRS 95.445, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, firefighter, or member of the Kentucky National Guard on state active duty pursuant to KRS 38.030, whose death occurs on or after July 1, ***2002***~~[1991]~~, as a direct result of an act in the line of duty shall receive a lump-sum payment of ***seventy-five thousand dollars ($75,000)***~~[fifty thousand dollars ($50,000)]~~ if there are no surviving children, which sum shall be paid by the State Treasurer from the general expenditure fund of the State Treasury. If there are surviving children and a surviving spouse, the payment shall be apportioned equally among the surviving children and the spouse. If there is no surviving spouse, the payment shall be made to the surviving children, eighteen (18) or more years of age. For surviving children less than eighteen (18) years of age, the State Treasurer shall:

(a) Pay ***thirty thousand dollars ($30,000)***~~[twenty thousand dollars ($20,000)]~~ to the surviving children; and

(b) Hold ***forty-five thousand dollars ($45,000)***~~[thirty thousand dollars ($30,000)]~~ in trust divided into equal accounts at appropriate interest rates for each surviving child until the child reaches the age of eighteen (18) years.

If a child dies before reaching the age of eighteen (18) years, his account shall be paid to his estate. If there are no surviving children, the payment shall be made to any parents of the deceased.

(3) The Commission on Fire Protection Personnel Standards and Education shall be authorized to promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to both paid and volunteer firefighters, including, but not limited to, defining when a firefighter has died in line of duty. Administrative hearings promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.

(4) The Justice Cabinet may promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to police officers, including, but not limited to, defining when a police officer has died in line of duty. Administrative hearings promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.

(5) The Department of Corrections shall promulgate administrative regulations establishing the criteria and procedures applicable to the administration of this section as it pertains to correctional employees, including, but not limited to, defining which employees qualify for coverage and which circumstances constitute death in the line of duty.

(6) The benefits payable under this section shall be in addition to any benefits now or hereafter prescribed under any police, sheriff, firefighter's, or National Guard retirement or benefit fund established by the federal government or by any state, county, or any municipality.

(7) Any funds appropriated for the purpose of paying the death benefits described in subsection (2) of this section shall be allotted to a self-insuring account. These funds shall not be used for the purpose of purchasing insurance.

SECTION 4. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

(1) If a firefighter as defined in Section 3 of this Act is, before, on, or after the effective date of this Act, permanently and totally disabled as defined in KRS 342.0011 as a direct result of activities in the line of duty, then the firefighter shall be entitled to receive a monthly payment to be paid by the State Treasurer from the general fund appropriation to the police and firefighter-life insurance category contained in miscellaneous appropriations of the state/executive branch budget of:

(a) Two hundred dollars ($200) to help defray the costs of life insurance; and

(b) Two hundred dollars ($200) to help defray the costs of health insurance.

(2) In order to receive the monthly payment, the firefighter must present to the Commission on Fire Protection Personnel Standards and Education:

(a) A written statement from the fire chief of the fire department under whose command the firefighter was at the time of injury stating the fact that the firefighter was on active duty and on assignment with that fire department when the injury occurred; and

(b) A written statement from at least two (2) licensed and practicing physicians stating that the member is totally and likely to be permanently disabled as defined in KRS 342.0011; and

(c) Proof, in a form satisfactory to the commission, that the firefighter has either or both active life and health insurance policies.

(3) (a) If a firefighter, either through a settlement of any kind or through any other source, has life insurance provided at no cost, then the firefighter shall not be eligible to receive the life insurance payment described in subsection (1)(a) of this section. If a firefighter receives partial payment of life insurance, and the portion of the payment that the firefighter is responsible for is less than the amount stated in subsection (1) of this section, then the firefighter shall only receive that portion of the payment to pay for the cost of the insurance.

(b) If a firefighter, either through a settlement of any kind or through any other source, has health insurance provided at no cost, then the firefighter shall not be eligible to receive the health insurance payment described in subsection (1)(b) of this section. If a firefighter receives partial payment of health insurance, and the portion of the payment that the firefighter is responsible for is less than the amount stated in subsection (1) of this section, then the firefighter shall only receive that portion of the payment to pay for the cost of the insurance.

(4) If the firefighter should no longer be considered permanently and totally disabled as defined in KRS 342.0011, or if either or both life and health insurance policies are terminated, then the firefighter shall within thirty (30) days of that determination notify the Commission on Fire Protection Personnel Standards and Education, in writing, of that fact or facts. The commission shall then terminate the appropriate subsequent payments to that firefighter. A firefighter may continue to receive payments for one (1) type of insurance as long as the firefighter is still permanently and totally disabled and the insurance policy is active. If the firefighter fails to notify the commission within thirty (30) days and receives subsequent payments under this section, the firefighter shall be responsible for repaying any payments provided to the firefighter under this section from the date that the firefighter was no longer considered permanently and totally disabled.

(5) The Commission on Fire Protection Personnel Standards and Education shall promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A establishing procedures and criteria applicable to the administration of this section by December 31, 2002.

(6) Any firefighter convicted of knowingly providing false information to receive the benefits in subsection (1) of this section shall be guilty of a Class D felony and shall be responsible for repaying the total amount paid to the firefighter, plus interest, under the provisions of this section within a time to be determined by the commission. The firefighter shall also no longer be eligible to receive any payments provided under this section.

(7) In the event sufficient funds do not exist to cover all the financial obligations of this section, then the payments shall be prorated among the participants evenly.".

Floor Amendment No. 2 Title to **SB 101**, by Representative A. Arnold:

Amend the title to read as follows:

"AN ACT relating to the benefits of emergency service personnel and making an appropriation therefor.".

Floor Amendment No. 1 to the Committee Substitute to **HB 747**, by Representative Palumbo:

On page 1, line 20, after "board" by bracketing and striking through "or" and inserting in lieu thereof "*,*";

On page 1, lines 21 and 22, beginning on line 21, after "athletics" by inserting "*, a local board of education, or a school-based decision making council*".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 211, Representative Sims

HB 519, Representative Denham

HB 556, Representative Palumbo

HB 721, Representative Palumbo

HB 737, Representatives Marcotte and Walton

HB 763, Representatives P. Clark and Horlander

HB 789, Representative Marzian

HB 819, Representatives Marzian and Reinhardt

HCR 161, Representative Yonts

HR 199, Representatives Colter and Simpson.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m. on Monday, March 18, 2002.

The motion that the House adjourn until 4:00 p.m., Monday, March 18, 2002, was adopted by voice vote.

MONDAY, MARCH 18, 2002

FORTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Dr. Gary Straub, First Christian Church, Frankfort, KY.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bather and Bratcher.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Friday, March 15, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **SB 193**

Judiciary: **SB 222**

Licensing and Occupations: **SB 195, 234**

Natural Resources and Environment: **HCR 244**

Seniors, Military Affairs and Public Safety: **SB 223**

State Government: **SB 154, 156**

Tourism Development and Energy: **SB 229**

House Floor: **HR 243**

Senate Message

Announcing passage of **SB 207, SB 232, SB 236, SB 246, SB 260, SB 262, SB 263, SB 271, SB 289, SB 291, SJR 153, SJR 156, SCR 185,** and **HB 634**. (Time: 4:15 p.m.)

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Health and Welfare: **SB 55, SB 219, HB 840,** and **HCR 239**

Report of Committees

The Committee on Licensing and Occupations reported **HB 768,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Referred to the Committee on Rules.

The Committee Substitute to **HB 768** is as follows:

HB 768, AN ACT relating to electronic gaming with related payments to the state and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 230A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds and declares that:

(1) In authorizing electronic gaming as described in this chapter, it is the purpose and intent of the General Assembly to:

(a) Provide non-state-supported financial assistance to Kentucky's horse racing and breeding industry in the form of new revenues generated by the operation of electronic gaming devices, which will enable the industry to create new jobs, encourage investment, and promote excellence in racing through higher purses for horsemen, renovation, and modernization of the state's aging racetracks;

(b) Restrict the operation of electronic gaming devices to the state's existing racetracks where wagering is already permitted and the requisite controls exist; and

(c) Provide for greater integrity, consistency, economy and efficiency by requiring that the Gaming Commission created under this chapter be an independent entity, but a part of and under the supervision of the Kentucky Lottery Corporation created under KRS Chapter 154A.

(2) The operation of electronic gaming devices as described in this chapter will generate substantial new revenue for state government so that state government can better serve the needs of the citizens of this state;

(3) The horse racing industry in Kentucky provides a valuable tourism resource for the Commonwealth and provides significant economic benefits to the citizens of this state through the provisions of jobs and the generation of state revenues;

(4) This valuable tourism resource is facing serious economic harm from competition resulting from increased gaming opportunities in neighboring states, including riverboat casinos and video lottery gaming. The operation of electronic gaming devices at certain facilities in this state would allow the racing industry to more effectively compete with out-of-state gaming to keep racing viable and protect the substantial economic contribution the racing industry makes to the Commonwealth;

(5) The General Assembly recognizes the need to protect the public against a statewide proliferation of gaming;

(6) The racing industry currently operates in limited areas of the Commonwealth where pari-mutuel wagering has been accepted, and the operation of additional gaming options exclusively at existing racetracks would not conflict with established community moral standards;

(7) The playing of electronic gaming devices as described in this chapter will be limited to persons twenty-one (21) years or older;

(8) The Gaming Commission, under the supervision of the Kentucky Lottery Corporation, will provide the expertise necessary to oversee the operation of electronic gaming devices in an efficient and effective manner;

(9) The racing industry has extensive experience and expertise in the management of gaming activities, which assures that electronic gaming devices will be operated with honesty and integrity;

(10) To create and maintain public confidence and trust in the integrity of electronic gaming device gaming, the regulatory provisions of this chapter are designed to extend strict regulation by the Gaming Commission to all persons involved in the operation of electronic gaming devices and the manufacturers and distributors of electronic gaming devices and associated equipment; and

(11) The racing industry has extensive experience and expertise in the development and operation of first-class entertainment facilities, including food and other amenities, which ensures that the operation of electronic gaming devices by licensed racetracks as described in this chapter will create additional economic development and provide competition for out-of-state gaming that will promote the racing and tourism industries in the state and will generate substantial revenue for the state and the racing industry.

SECTION 2. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "Associated equipment" means any hardware located on a licensed racetrack's premises which is connected to the electronic gaming device system for the purpose of performing communication, validation, or other functions, but not including the electronic gaming devices or the telecommunications facilities of a public utility;

(2) "Central computer system" means any central site computer controlled by the Gaming Commission to which electronic gaming devices communicate for purposes of information retrieval and other purposes authorized by this chapter;

(3) (a) "Control" means:

1. The direct or indirect possession by a person and the affiliates and associates of that person of the power to direct or cause the direction of the management and policies of an eligible association, whether through the ownership of voting securities, by contract, or otherwise;

2. The direct or indirect beneficial ownership by a person and the affiliates and associates of that person of, or the direct or indirect power of a person and the affiliates and associates of that person to vote or direct the voting of, twenty percent (20%) or more of the votes entitled to be cast by an eligible association's owners; or

3. The direct or indirect beneficial ownership by a person and the affiliates and associates of that person of twenty percent (20%) or more of the ownership interests in an eligible association.

(b) For purposes of this subsection:

1. "Affiliate" means a person who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, a specified person; and

2. "Associate," when used to indicate a relationship with any person, means:

a. Any corporation or organization, other than the eligible association or a subordinate entity of the eligible association of which that person is an officer or equivalent position or the beneficial owner of ten percent (10%) or more of any class of ownership interests;

b. Any trust or other estate in which that person has a substantial beneficial interest or as to which that person serves as trustee or in a similar fiduciary capacity; and

c. Any relative or spouse of that person, or any relative of that spouse, any one of whom has the same home as that person;

(4) "Electronic gaming device" means a Gaming Commission-approved electronic or mechanical device sold, leased, or transferred to a racetrack licensed as an electronic gaming device operator, connected with the Gaming Commission's central computer system, and used for the purpose of playing electronic gaming device games. An electronic gaming device may:

(a) Simulate the play of one or more games of chance;

(b) Use spinning reels or video displays or both;

(c) Dispense coins, currency, vouchers, tokens, or redemption tickets directly to winning players;

(d) Use an electronic credit system making the deposit of coins, currency, vouchers, or tokens unnecessary. However, no electronic gaming device shall accept a credit card or debit card from a player for the exchange or purchase of electronic gaming device game credits or for an advance of coins, currency, vouchers, tokens, or redemption tickets to be utilized by a player to play an electronic gaming device game, or extend credit, in any manner, to a player so as to enable the player to play an electronic gaming device game; or

(e) Have the multifunctional ability to conduct both electronic gaming device games and pari-mutuel wagering on horse racing;

(5) "Electronic gaming device distributor" means any person holding a license granted by the Gaming Commission to engage in the business of buying, selling, leasing, servicing, or repairing electronic gaming devices, associated equipment, or the parts thereof for use by electronic gaming device operators;

(6) "Electronic gaming device employee" means any floor attendant, service technician, or validation manager who performs services for an electronic gaming device operator or for an electronic gaming device operations manager in connection with the operation of electronic gaming devices;

(7) "Electronic gaming device game" means any game, including but not limited to video poker, keno, line-up or blackjack, which is displayed or played on an electronic gaming device and which:

(a) Is connected to the Gaming Commission's central computer system by an on-line or dial-up telecommunications system;

(b) Is utilized by a player's insertion of coins, currency, vouchers, or tokens or entry of electronic credits into an electronic gaming device, which causes game play credits to be displayed on the electronic gaming device, and with respect to which, each game play credit entitles a player to choose one or more symbols or numbers or to cause the electronic gaming device to randomly select symbols or numbers;

(c) Allows the player to win additional game play credits, coins, currency, vouchers or tokens based upon game rules which establish the random selection of winning combinations of symbols or numbers or both and the number of free play credits, coins, currency, vouchers, or tokens to be awarded for each winning combination of symbols or numbers or both;

(d) Is based upon machine-generated random selection of winning combinations based wholly or predominantly on chance;

(e) In the case of an electronic gaming device operator choosing to operate an electronic gaming device, allowing the player an option to select replacement symbols, numbers, additional symbols, or numbers after the game is initiated, in the course of play, either:

1. Signals the player, prior to any optional selection by the player of randomly generated replacement symbols or numbers, as to which symbols or numbers should be retained by the player to present the best chance, based upon probabilities, that the player may select a winning combination;

2. Signals the player, prior to any optional selection by the player of randomly generated additional symbols or numbers, as to whether such additional selection presents the best chance, based upon probabilities, that the player may select a winning combination; or

3. Randomly generates additional or replacement symbols and numbers for the player after automatically selecting the symbols and numbers which should be retained to present the best chance, based upon probabilities, for a winning combination, so that in any event, the player is not permitted to benefit from any personal skill, based upon a knowledge of probabilities, before deciding which optional numbers or *symbols to choose in the course of electronic gaming device play; and*

(f) Allows a player at any time to simultaneously clear all game play credits and receive coins, currency, or a redemption ticket equal to the value of the free plays cleared from the electronic gaming device;

(8) "Electronic gaming device license" means authorization granted by the Gaming Commission to an eligible association which is first licensed by the Racing Commission to conduct thoroughbred or standardbred racing under KRS Chapter 230, permitting the eligible association to operate electronic gaming devices at a racetrack in accordance with the provisions of this chapter;

(9) "Electronic gaming device manufacturer" or "manufacturer" means any person holding a license granted by the Gaming Commission to engage in the business of designing, building, constructing, assembling, or manufacturing electronic gaming devices, the electronic computer components of the electronic gaming devices, the random number generator of the electronic gaming devices, or the cabinet in which it is housed, and whose product is intended for sale, lease, or other transfer to a licensed racetrack in Kentucky which is an electronic gaming device operator. An electronic gaming device manufacturer may contract directly for the sale, lease, or other transfer of any such product to a racetrack in Kentucky licensed as an electronic gaming device operator, without holding a separate license as an electronic gaming device distributor;

(10) "Electronic gaming device operations manager" means any person holding a license granted by the Gaming Commission to manage, and which has contracted with an electronic gaming device operator to manage, the operation of the electronic gaming devices of an electronic gaming device operator;

(11) "Electronic gaming device operator" means an eligible association or associations, if applicable, which holds an electronic gaming device license;

(12) "Eligible association" means a person licensed by the Racing Commission to own and operate a racetrack, conduct a live horse race meeting at the racetrack and conduct pari-mutuel wagering thereon under KRS Chapter 230. Any association licensed to conduct pari-mutuel wagering or horse races under KRS 230.361(4) or KRS 230.398, or any association that changes the primary breed of live racing after January 1, 2002, shall not qualify as an eligible association;

(13) "Floor attendant" means a person who holds a license issued by the Gaming Commission and who corrects paper jams and bill jams in electronic gaming devices and also provides courtesy services for electronic gaming device players;

(14) "Gaming Commission" means the commission established by Section 3 of this Act.

(15) "Gaming income" means the total amount of coins, currency, vouchers, tokens, or electronic credits inserted or entered into the electronic gaming devices operated by an electronic gaming device operator, minus the total value of coins, currency, vouchers, and tokens won by a player and game credits which are cleared from the electronic gaming devices in exchange for coins, currency, or redemption tickets;

(16) "Progressive game" means any game whose jackpot grows and accumulates as it is being played on an electronic gaming device and whose outcome is randomly determined by the play of electronic gaming devices;

(17) "Racetrack" or "licensed racetrack" means a facility owned or leased by an eligible association and licensed by the Racing Commission as a racetrack under KRS Chapter 230; provided, for the purposes of this chapter, "racetrack" or "licensed racetrack" includes only a facility which was licensed by the racing commission and existing as of January 1, 2001. The term "racetrack" or "licensed racetrack" does not include any simulcast facility as defined in KRS 230.210(11); provided, the term "racetrack" or "licensed racetrack" may include any facility located within the same county as the facility of the eligible association that has been approved by the Racing Commission as of January 1, 2001, pursuant to KRS 230.300 as part of the place, track, or enclosure, or any other facility that is located within the same county as the facility of the eligible association and that, after January 1, 2001:

(a) Is approved by the Racing Commission pursuant to KRS 230.300 as part of the place, track, or enclosure; and

(b) If the other facility is not contiguous to the facility of the eligible association, is approved by a resolution of the governing body of the local jurisdiction in which the other facility is located; and

(c) In the case of a county in which more than one licensed racetrack is located, is approved in writing by the other licensed racetrack.

Provided further, however, an eligible association may operate electronic gaming devices at only one facility.

(18) "Racing Commission" means the Kentucky Racing Commission established and existing under KRS Chapter 230;

(19) "Service technician" means a person who holds a license issued by the Gaming Commission and who performs service, maintenance, and repair on licensed electronic gaming devices in this state;

(20) "Simulcast facility" means any facility approved under KRS 230.380 to simulcast racing and conduct pari-mutuel wagering; and

(21) "Validation manager" means a person who holds a license issued by the Gaming Commission and who performs electronic gaming device redemption services.

SECTION 3. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky Gaming Commission as an agency of the Commonwealth of Kentucky with the responsibility and power to supervise and regulate all electronic gaming device activities in the Commonwealth under this chapter. The Gaming Commission shall be an independent entity, but a part of the Kentucky Lottery Corporation and shall be supervised by the Kentucky Lottery Corporation Board created under KRS 154A.030.

(2) Nothing in this chapter shall be deemed to limit, restrict, or diminish the powers or jurisdiction of the Racing Commission, including but not limited to the Racing Commission's authority under subsection 10 of Section 44 of this Act. The Gaming Commission and the Racing Commission shall each appoint four (4) members to an advisory board which shall provide guidance and coordination to the Gaming Commission and the Racing Commission in connection with the implementation of electronic gaming under this chapter.

SECTION 4. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The Gaming Commission shall consist of seven (7) members, to be qualified and appointed as provided in this section. Each member of the Gaming Commission shall:

(a) Be a citizen of the United States; and

(b) Have been a resident of the Commonwealth of Kentucky for at least six (6) months before such appointment.

(2) The Gaming Commission members shall devote such time to the business of the Gaming Commission as may be necessary to the discharge of their duties.

(3) No member of the Gaming Commission, at the time of appointment or during membership on the Gaming Commission, or his or her spouse, or any person within the fourth degree of relationship to either of them, shall:

(a) Be a member of the legislature, person holding any elective office in the state government, or any officer or official of any political party; or

(b) Have any pecuniary or ownership interest in, engage in any loan or credit transaction with, be employed by or hold a position with, or have any ownership or managerial position in any business or professional organization that provides goods or services to, engages in line of credit transactions with, or otherwise does business with, any licensee under this chapter, any manufacturer or distributor of electronic gaming devices, any other person engaging in a business relating to gambling, the lottery, or any affiliate of any thereof; or

(c) Have made any political contributions to the Governor who is making appointments of membership to the Gaming Commission.

(4) It is in the intention of the Legislature that the Gaming Commission be composed of the most qualified persons available, preferably no two (2) of whom shall be of the same profession or major field of industry; provided, however, that no person actively engaged or having a direct pecuniary interest in gaming activities shall be a member of the Gaming Commission.

(5) Before entering upon the duties of his or her office, each member shall subscribe to the constitutional oath of office and, in addition, swear that he or she has not made any political contributions to the Governor appointing him or her and that he or she is not pecuniarily interested in any business or organization holding a gaming license or doing business with any such person or organization. The oath of office shall be filed in the office of the Gaming Commission.

(6) The members of the Gaming Commission shall comply with the Executive Branch Code of Ethics found in KRS Chapter 11A.

SECTION 5. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The Governor shall appoint seven (7) members of the Gaming Commission, one (1) member from each of the six (6) congressional districts and one (1) member at large. The appointment of each member shall be subject to approval by the Senate and the House of Representatives under KRS 11.160, provided that the initial members shall validly serve until and subject to such approval.

(2) One (1) member of the Gaming Commission shall be a certified public accountant licensed by the Commonwealth of Kentucky, or by another state of the United States, or a public accountant qualified to practice public accounting under the provisions of KRS Chapter 325 and have at least five (5) years of progressively responsible experience in general accounting, and have a comprehensive knowledge of the principles and practices of corporate finance; or the person shall possess the qualifications of an expert in the fields of corporate finance and auditing, general finance, gaming, or economics.

(3) One (1) member of the Gaming Commission shall be selected with special reference to his or her training and experience in the fields of investigation, law enforcement, law, or gaming.

(4) Not more than four (4) of the members of the Gaming Commission shall be registered as members of the same political party.

(5) Initial appointments to the Gaming Commission made pursuant to this chapter shall be for terms as follows:

(a) Two (2) members for two (2) years;

(b) Two (2) members for three (3) years; and

(c) Three (3) members for four (4) years.

(6) The term of each of the members first appointed pursuant to this chapter, and the member who shall serve as chairperson of the commission, shall be designated by the Governor. After the initial terms, the term of office of each member of the Gaming Commission shall be four (4) years.

(7) The Governor may remove any member for misfeasance, malfeasance, or nonfeasance in office. Removal may be made after:

(a) The member has been served with a copy of the charges against him or her; and

(b) A public hearing before the Governor is held upon the charges, if requested by the member charged.

The request for a public hearing shall be made within ten (10) days after service upon the member of the charges. If a hearing is not requested, a member shall be deemed removed effective ten (10) days after service of charges upon him or her. A record of the proceedings at the public hearing shall be filed with the Secretary of State.

(8) No person holding any license in accordance with this chapter related to electronic gaming devices, or any license or permit issued pursuant to KRS Chapters 230, 154A, or 238, or any affiliate of any of them, may lawfully employ, offer to employ, or agree to employ, any person who previously served as a member of the Gaming Commission within a period of three (3) years following the termination of his or her service as a member of the Gaming Commission. It shall be a condition to the service of any member of the Gaming Commission, who shall be deemed to agree to such condition by his or her acceptance or membership on the Gaming Commission, that he or she will not be employed by, agree to be employed by, or solicit employment from, any licensee described in the preceding sentence for a period of three (3) years following the termination of his or her service as a member of the Gaming Commission, or by any affiliate thereof.

SECTION 6. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

The Gaming Commission members are each entitled to receive a fee in the amount of one hundred dollars ($100) for each meeting of the Gaming Commission that they attend.

SECTION 7. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The Gaming Commission may:

(a) Establish, and from time to time alter, such plan of organization as it may deem expedient;

(b) Acquire such furnishings, equipment, supplies, stationery, books, motor vehicles, and all other things as it may deem necessary or desirable in carrying out its functions; and

(c) Incur such other expenses, within the limit of money available to it, as it may deem necessary.

(2) Except as otherwise provided in this chapter, all costs of administration incurred by the Gaming Commission shall be paid out on claims from the state general fund in the same manner as other claims against the Commonwealth are paid.

(3) The Gaming Commission shall, within the limits of legislative appropriations or authorizations, employ and fix the salaries of or contract for the services of such professional, technical, and operational personnel and consultants as the execution of its duties and the operation of the Gaming Commission may require.

(4) The Gaming Commission shall, by suitable administrative regulations, establish a comprehensive plan governing employment, job classifications and performance standards, and retention or discharge of employees to ensure that termination or other adverse action is not taken against these employees except for cause. The administrative regulations shall include provisions for hearings in personnel matters and for review of adverse actions taken in those matters.

SECTION 8. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

The Gaming Commission may employ the services of such persons as it considers necessary for the purposes of consultation or investigation.

SECTION 9. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

The Gaming Commission shall keep its main office at Frankfort, Kentucky.

SECTION 10. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The position of executive director of the Gaming Commission is hereby created. The Gaming Commission shall appoint the executive director, and the executive director shall serve at the will and pleasure of the Gaming Commission.

(2) The executive director, at the time of appointment or during the time of service as executive director, or his or her spouse, or any person within the fourth degree of relationship to either of them, shall not:

(a) Be a member of the Legislature, person holding any elective office in the state government, or any officer or official of any political party; or

(b) Have any pecuniary or ownership interest in, engage in any loan or credit transaction with, be employed by or hold a position with, or have any ownership or managerial position in any business or professional organization that provides goods or services to, engages in line of credit transactions with, or otherwise does

business with, any eligible association, any licensee under this chapter, any manufacturer or distributor of gaming equipment, any other person engaged in a business relating to gambling, the lottery, or racing, or any affiliate of any thereof; or

(c) Have made any political contributions to the Governor who appointed the members of the Gaming Commission.

(3) The executive director shall have at least five (5) years of responsible administrative experience in public or business administration or possess broad management skills.

(4) The executive director shall devote his or her entire time and attention to the duties imposed under this chapter and the business of the Gaming Commission and shall not pursue any other business or occupation or hold any other office of profit.

(5) The executive director is entitled to an annual salary in the amount specified by the Gaming Commission.

SECTION 11. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The executive director shall furnish to the Gaming Commission such administrative and clerical services and such furnishings, equipment, supplies, stationery, books, and all other things that the Gaming Commission may deem necessary or desirable in carrying out its functions.

(2) The executive director shall be authorized to create such other positions as he or she deems necessary to implement the provisions of this chapter.

(3) The executive director in pursuit of the attainment of the objectives and the purposes of this chapter may:

(a) Direct and supervise all administrative actions of the Gaming Commission;

(b) Sue on behalf of the Gaming Commission;

(c) Make, execute, and effectuate any and all agreements or contracts, including contracts for the purchase of goods and services as are necessary;

(d) Employ the services of such persons as are considered necessary for the purposes of consultation or investigation and fix the salaries of or contract for the services of such legal, professional, technical, and operational personnel and consultants;

(e) Acquire such furnishings, equipment, supplies, stationery, books and any other things as he or she may deem necessary or desirable in carrying out his or her functions; and

(f) Perform such other duties which he or she may deem necessary to effectuate the purposes of this chapter.

(4) Except as otherwise provided in this chapter, all costs of administration incurred by the executive director shall be paid out on claims from the State Treasury in the same manner as other claims against the Commonwealth are paid.

SECTION 12. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The executive director shall maintain a file of all applications for licenses under this chapter, together with a record of all action taken with respect to those applications.

(2) The Gaming Commission and executive director may maintain such other files and records as they deem desirable.

(3) All records of the Gaming Commission or executive director shall be deemed open records and subject to public inspection, unless:

(a) The record is excluded from inspection under KRS 61.870 to 61.884 by KRS 61.878;

(b) The record involves a trade secret or other legally protectable intellectual property, or confidential proprietary information of the Gaming Commission or executive director or a trade secret, or other legally protectable intellectual property, confidential proprietary information, or finances, earnings or revenue of an applicant or licensee under this chapter; or

(c) The disclosure of the record could impair or adversely impact the security of the Gaming Commission or the security of applicants or licensees under this chapter.

(4) The provisions of KRS 61.878, 61.880, and 61.884 shall apply to records of the executive director or Gaming Commission with the exception that the only Circuit Court with jurisdiction over the records of the executive director or Gaming Commission is the Circuit Court in the county where the headquarters of the Gaming Commission is located.

(5) Notice of the content of any information or data furnished or released pursuant to this section may be given to any applicant or licensee in a manner prescribed by administrative regulations adopted by the Gaming Commission.

SECTION 13. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The Gaming Commission may hold regular and special meetings at such times and places as it may deem convenient, and it shall hold at least one (1) regular meeting each month.

(2) All meetings of the Gaming Commission shall be open unless they may be closed under KRS 61.810 or relate to trade secrets, legally protectable intellectual property, confidential proprietary information, finances, earnings or revenues, the security of the Gaming Commission, or the security of applicants or licensees under this chapter, in which case the

portions of the meetings relating to these subjects may be closed.

(3) A majority of the members constitutes a quorum of the Gaming Commission, and a majority of members present at any meeting determines the action of the Gaming Commission.

(4) Investigative hearings may be conducted by the Gaming Commission, or by a hearing examiner appointed by the Gaming Commission, at such times and places, within the State of Kentucky, as may be convenient.

SECTION 14. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The Gaming Commission shall cause to be made and kept a record of all proceedings at regular and special meeting of the Gaming Commission.

(2) The Gaming Commission shall maintain a file of all applications for licenses under this chapter, together with a record of all action taken with respect to those applications.

(3) The Gaming Commission may maintain such other files and records as it may deem desirable.

(4) All records of the Gaming Commission shall be deemed open records and subject to public inspection, unless:

- *(a) The record is excluded from inspection under KRS 61.870 to 61.884 by KRS 61.878;*
- *(b) The record involves a trade secret or other legally protectable intellectual property, or confidential proprietary information of the Gaming Commission or a trade secret, or other legally protectable intellectual property, confidential proprietary information, or finances, earnings or revenue of an applicant or licensee under this chapter; or*
- *(c) The disclosure of the record could impair or adversely impact the security of the Gaming Commission or the security of applicants or licensees under this chapter.*

(5) The provisions of KRS 61.878, 61.880, and 61.884 shall apply to records of the Gaming Commission with the exception that the only Circuit Court with jurisdiction over the records of the Gaming Commission is the Circuit Court in the county where the headquarters of the Gaming Commission is located.

(6) Notice of the content of any information or data furnished or released pursuant to subsection (4) of this section may be given to any applicant or licensee in a manner prescribed by administrative regulations adopted by the Gaming Commission.

(7) All files, records, reports, and other information pertaining to electronic gaming device matters in the possession of the Kentucky Revenue Cabinet shall be made available to the Gaming Commission as is necessary to the administration of this chapter.

SECTION 15. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The Gaming Commission shall oversee the administration of this chapter to ensure that these laws are administered for the protection of the public and in the public interest in accordance with the policy of the state.

(2) The duties of the Gaming Commission shall include:

- *(a) Performing a continuing study of the electronic gaming industry in this country and making periodic reports to the Governor and the Legislature concerning needed revisions in the laws of the state that provide for the licensing, regulation, and taxation of all electronic gaming;*
- *(b) Initiating enforcement proceedings against any licensees, employees, and other persons involved in electronic gaming to enforce the provisions of this chapter, and to enforce the other applicable laws and applicable rules and regulations of the Gaming Commission;*
- *(c) Considering and deciding appeals from actions taken by the Gaming Commission; and*
- *(d) Performing such other duties and exercising such other powers as are either expressly or by reasonable implication authorized by this chapter as shall be necessary to achieve the primary purpose of providing effective and honest licensing and regulation of electronic gaming.*

(3) The provisions of this chapter with respect to electronic gaming licenses shall be administered by the Gaming Commission for the protection of the public and in the public interest in accordance with the policy of this state.

(4) The Gaming Commission and its agents may:

- *(a) Inspect and examine all premises wherein electronic gaming activities are conducted or electronic gaming devices or equipment are manufactured, sold, or distributed;*
- *(b) Inspect all electronic gaming equipment and supplies in, upon, or about such premises;*
- *(c) Summarily seize and remove from such premises and impound any equipment, supplies, documents, or records related to electronic gaming for the purpose of examination and inspection;*
- *(d) Demand access to and inspect, examine, photocopy, and audit all papers, books, and records of any applicant or licensee, on his or her premises, or elsewhere as practicable, and in the presence of the applicant or licensee, or his or her agent, respecting the gross income produced by any electronic gaming business, and require verification of income, and all other matters related to electronic gaming affecting the enforcement of the policy or any of the provisions of this chapter; and*

(e) Demand access to and inspect, examine, photocopy, and audit all papers, books and records of any affiliate of a licensee related to electronic gaming who the commission knows or reasonably suspects is involved in the financing, operation, or management of the electronic gaming activities of the licensee. The inspection, examination, photocopying, and audit may take place on the affiliate's premises or elsewhere as practicable, and in the presence of the affiliate or its agent.

(5) For the purpose of conducting audits after the cessation of electronic gaming by a licensee, the former licensee shall furnish, upon demand of an agent of the Gaming Commission, books, papers, and records as necessary to conduct the audits. The former licensee shall maintain all books, papers, and records necessary for audits for a period of one (1) year after the date of the surrender or revocation of his or her electronic gaming license. If the former licensee seeks judicial review of a deficiency determination or files a petition for a redetermination, he or she shall maintain all books, papers, and records until a final order is entered on the determination.

(6) The Gaming Commission may investigate, for the purpose of prosecution, any suspected regulatory or criminal violation of the provisions of this chapter. For the purpose of the administration and enforcement of those provisions, those agents of the Gaming Commission whose duties include the enforcement, or the investigation of suspected violations, of statutes or regulations, have the powers of a peace officer of this state.

(7) The Gaming Commission shall have full power and authority to issue subpoenas and compel the attendance of witnesses at any place within this state, to administer oaths, and to require testimony under oath. Any process or notice may be served in the manner provided for service of process and notices in civil actions. The Gaming Commission may pay such transportation and other expenses of witnesses as it may deem reasonable and proper. Any person making a false oath in any matter before the Gaming Commission shall be guilty of perjury. The Gaming Commission may appoint hearing examiners who may administer oaths and receive evidence and testimony under oath.

SECTION 16. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The Gaming Commission shall investigate the qualifications of each applicant for the issuance, renewal, transfer, or reinstatement of any license under this chapter.

(2) If the Gaming Commission has reason to believe, either because of information gained by investigation or because of information brought to its attention by others, that a violation of law by a licensee or other person involved with an electronic gaming establishment has occurred, the Gaming Commission may investigate such activities for the purpose of determining if the alleged violations of law have occurred, and thereafter may take any lawful actions to enforce any violation of law, including:

(a) The initiation of proceedings by the Gaming Commission that may result in the suspension or revocation of any license granted under this chapter and a levy of fines;

(b) The institution of proceedings in the Circuit Court of a county for injunctive relief; and

(c) The referral of the matter to the Attorney General or the county or Commonwealth's attorney of the county for criminal prosecution.

(3) If after any investigation the Gaming Commission is satisfied that a license or prior approval by the commission of any transaction for which approval was required or permitted under the provisions of this chapter should be limited, conditioned, suspended, or revoked or that a fine should be levied, the Gaming Commission shall initiate a hearing by filing its complaint with the licensee and transmitting therewith a summary of evidence bearing on the matter and the transcript of testimony at any investigative hearing conducted by or on behalf of the Gaming Commission to the licensee. The complaint shall be a written statement of charges which shall set forth in ordinary and concise language the acts or omission with which the respondent is charged. It shall specify the statutes and regulations which the respondent is alleged to have violated.

(4) The respondent shall answer within twenty (20) days after the service of the complaint.

(5) The Gaming Commission or its hearing examiner shall conduct proceedings in accordance with Section 20 of this Act. After such proceedings as may be required or permitted by the Gaming Commission, the hearing examiner may recommend that the Gaming Commission take any appropriate action, including revocation, suspension, limitation, or conditioning of a license, or imposition of a fine not to exceed ten thousand dollars ($10,000) for each violation.

(6) The hearing examiner shall prepare a written decision containing his or her recommendation to the Gaming Commission and shall serve it on all parties. Any respondent that disagrees with the hearing examiner's recommendation may ask the Gaming Commission to review the recommendation within ten (10) days of service of the recommendation.

(7) The Gaming Commission shall review the recommendation. The Gaming Commission may remand the case to the hearing examiner for the presentation of additional evidence upon a showing of good cause why the evidence could not have been presented at the previous hearing.

(8) The Gaming Commission shall by a majority vote accept, reject, or modify the recommendation.

(9) If the Gaming Commission limits, conditions, suspends, or revokes any license or imposes a fine, or denies, limits, conditions, suspends, or revokes any prior approval, it shall issue its written order therefor, and shall furnish each party notification of the order.

(10) Any such limitation, condition, revocation, suspension, or fine so made is effective until reversed by the Gaming Commission or upon judicial review, except that the Gaming Commission may stay its order pending a rehearing by the Gaming Commission or judicial review upon such terms and conditions as it deems proper.

SECTION 17. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Within twenty (20) days after receipt of any application, the Gaming Commission shall examine the application, notify the applicant of any apparent errors or omissions, request any additional information the Gaming Commission wishes to obtain and shall be permitted by law to require, and notify the applicant of the name, official title, mailing address, and telephone number of a Gaming Commission member or employee who may be contacted regarding the application.

(2) Within sixty (60) days after receipt of the application or of the response to a timely request made by the Gaming Commission pursuant to subsection (1) of this section, the Gaming Commission shall approve or deny the application, in whole or in part, on the basis of the criteria set forth in this chapter.

SECTION 18. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Unless prohibited by any provision of law, the Gaming Commission, on its own motion, may conduct administrative review of an order of the Gaming Commission or a hearing examiner.

(2) Unless otherwise provided by statute:

- *(a) A hearing examiner appointed by the Gaming Commission shall preside at the review proceedings and the hearing examiner shall be one who is authorized to grant appropriate relief upon a review.*
- *(b) The hearing examiner shall give each party an opportunity to explain the party's view of the matter unless the party's view is apparent from the written materials in the file submitted to the hearing examiner. The hearing examiner shall make any inquiries necessary to ascertain whether a formal adjudicative hearing is required pursuant to this chapter.*
- *(c) The hearing examiner may render an order disposing of the proceeding in any manner that is permissible under this chapter or the hearing examiner may remand the matter for further proceedings, with or without recommending a formal adjudicative hearing.*
- *(d) The order on review shall be in writing, including a brief statement of findings of fact, conclusions of law, and policy reasons for the decision if it is an exercise of the Gaming Commission's discretion, to justify the order, and a notice of any further available administrative review.*
- *(e) A request for administrative review shall be deemed to have been denied if the hearing examiner does not dispose of the matter or remand it for further proceedings within thirty (30) days after the request is submitted.*

(3) The Gaming Commission record shall consist of any documents regarding the matter that were considered or prepared by the Gaming Commission for the initial order or by the hearing examiner for any review. The Gaming Commission shall maintain these documents as its official record.

(4) Unless otherwise required by a provision of law, the Gaming Commission record need not constitute the exclusive basis for Gaming Commission action or for judicial review thereof.

SECTION 19. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

In the case of any formal adjudicative hearing:

(1) The executive director or a hearing examiner appointed by the Gaming Commission may be the presiding officer.

(2) Any person serving or designated to serve alone or with others as presiding officer is subject to disqualification for bias, prejudice, interest, or any other cause provided in this chapter or for which a judge is or may be disqualified.

(3) Any party may petition for the disqualification of a person promptly after receipt of notice indicating that the person will preside or promptly upon discovering facts establishing grounds for disqualification, whichever is later.

(4) A person whose disqualification is requested shall determine whether to grant the petition, stating facts and reasons for the determination.

(5) If a substitute is required for a person who is disqualified or becomes unavailable for any other reason, the substitute shall be appointed by the Gaming Commission.

(6) Any action taken by a duly appointed substitute for a disqualified or unavailable person shall be as effective as if taken by the latter.

(7) Any party may participate in the hearing in person or, if the party is a company or other artificial person, by a duly authorized representative.

(8) Whether or not participating in person, any party may be advised and represented at the party's own expense by counsel or, if permitted by law, other representative.

(9) The presiding officer for the hearing may issue a prehearing order, based on the pleadings, to regulate the conduct of the proceedings.

(10) The presiding officer for the hearing shall set the time and place of the hearing and give reasonable written notice to all parties and to all persons who have filed written petitions to intervene in the matter.

(11) The notice shall include a copy of any prehearing order rendered in the matter.

(12) To the extent not included in a prehearing order accompanying it, the notice shall include:

- *(a) The names and mailing addresses of all parties and other persons to whom notice is being given by the presiding officer;*
- *(b) The name, official title, mailing address, and telephone number of any counsel or employee who has been designated to appear for the Gaming Commission.*
- *(c) The official file or other reference number, the name of the proceeding, and a general description of the subject matter;*
- *(d) A statement of the time, place, and nature of the hearing;*
- *(e) A statement of the legal authority and jurisdiction under which the hearing is to be held;*
- *(f) The name, official title, mailing address, and telephone number of the presiding officer;*
- *(g) A statement of the issues involved and, to the extent known to the presiding officer, of the matters asserted by the parties; and*
- *(h) A statement that a party who fails to attend or participate in a hearing, or other stage of an adjudicative proceeding, may be held in default under this chapter.*

(13) The notice may include any other matters the presiding officer considers desirable to expedite the proceedings.

(14) The Gaming Commission shall give notice to persons entitled to notice under any provision of law who have not been given notice by the presiding officer. Notice under this subsection may include all types of information provided in subsections (10) to (13) of this section or may consist of a brief statement indicating the subject matter, parties, time, place, and nature of the hearing, manner in which copies of the notice to the parties may be inspected and copied, and name and telephone number of the presiding officer.

(15) The presiding officer, at appropriate stages of the proceedings, shall give all parties full opportunity to file pleadings, motions, objections, and offers of settlement.

(16) The presiding officer, at appropriate stages of the proceedings, may give all parties full opportunity to file briefs, proposed findings of fact and conclusions of law, and proposed initial or final orders.

(17) A party shall serve copies of any filed item on all parties, by mail or any other means described by Gaming Commission rule.

(18) If a party fails to attend or participate in a hearing, or other stage of an adjudicative proceeding, the presiding officer may serve upon all parties written notice of a proposed default order, including a statement of the grounds.

(19) Within seven (7) days after service of a proposed default order, the party against whom it was issued may file a written motion requesting that the proposed default order be vacated and stating the grounds relied upon. During the time within which a party may file a written motion under this subsection, the presiding officer may adjourn the proceedings or conduct them without the participation of the party against whom a proposed default order was issued, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings.

(20) The presiding officer shall either issue or vacate the default order promptly after expiration of the time within which the party may file a written motion under subsection (19) of this section.

(21) After issuing a default order, the presiding officer shall conduct any further proceedings necessary to complete the adjudication without the participation of the party in default and shall determine all issues in the adjudication, including those affecting the defaulting party.

(22) The presiding officer shall grant a petition for intervention if:

- *(a) The petition is submitted in writing to the presiding officer, with copies mailed to all parties named in the presiding officer's notice of the hearing, at least three (3) days before the hearing;*
- *(b) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities, or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervener under any provision of law; and*
- *(c) The presiding officer determines that the interests of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing the intervention.*

(23) The presiding officer may grant a petition for intervention at any time, upon determining that the intervention sought is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.

(24) If a petitioner qualifies for intervention, the presiding officer may impose conditions upon the intervener's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:

- *(a) Limiting the intervener's participation to designated issues in which the intervener has a particular interest demonstrated by the petitioner;*
- *(b) Limiting the intervener's use of discovery, cross-examination, and other procedures so as to promote the*

orderly and prompt conduct of the proceedings; and

(c) Requiring two (2) or more interveners to combine their presentations of evidence and argument, cross-examination, discovery, and other participation in the proceedings.

(25) The presiding officer, at least twenty-four (24) hours before the hearing, shall issue an order granting or denying each pending petition for intervention, specifying any conditions, and briefly stating the reasons for the order. The presiding officer may modify the order at any time, stating the reasons for the modification. The presiding officer shall promptly give notice of an order granting, denying, or modifying intervention to the petitioner for intervention and to all parties.

(26) The presiding officer may issue subpoenas, discovery orders, and protective orders, in accordance with the Kentucky Rules of Civil Procedure.

(27) Subpoenas and orders issued under this section may be enforced pursuant to the provisions of this chapter on civil enforcement of commission action.

SECTION 20. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

At a formal hearing, the following procedures shall apply:

(1) The presiding officer shall regulate the course of the proceedings in conformity with any prehearing order.

(2) To the extent necessary for full disclosure of all relevant facts and issues, the presiding officer shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence, except as restricted by a limited grant of intervention or by the prehearing order.

(3) The presiding officer may give a nonparty an opportunity to present oral or written statements. If the presiding officer proposes to consider a statement by a nonparty, the presiding officer shall give all parties an opportunity to challenge or rebut it and, on motion of any party, the presiding officer shall require the statement to be given under oath or affirmation.

(4) The presiding officer may conduct all or part of the hearing by telephone, television, or other electronic means, if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

(5) The presiding officer shall cause the hearing to be recorded at the Gaming Commission's expense. The Gaming Commission is not required, at its expense, to prepare a transcript, unless required to do so by a provision of law. Any party, at the party's expense, may cause a reporter approved by the Gaming Commission to prepare a transcript from the Gaming Commission's record, or cause additional recordings to be made during the hearing if the making of the additional recordings does not cause distraction or disruption.

(6) The hearing shall be open to public observation, except for the parts that the presiding officer states to be closed pursuant to a provision of law expressly authorizing closure. No hearing shall be conducted by telephone, television, or other electronic means, unless provisions are made for simultaneous electronic public access or public observation of the meeting.

(7) Upon proper objection, the presiding officer shall exclude evidence that is irrelevant, immaterial, unduly repetitious, or excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this Commonwealth. In the absence of proper objection, the presiding officer may exclude objectionable evidence. Evidence may not be excluded solely because it is hearsay.

(8) All testimony of parties and witnesses shall be made under oath or affirmation.

(9) Statements presented by a nonparty in accordance with subsection (3) of this section may be received as evidence.

(10) Any part of the evidence may be received in written form if doing so will expedite the hearing without substantial prejudice to the interests of any party.

(11) Documentary evidence may be received in the form of a copy or excerpt. Upon request, parties may be given an opportunity to compare the copy with the original if available.

(12) (a) Official notice may be taken of:

1. Any fact that could be judicially noticed in the courts of this state;

2. The record of other proceedings before the Gaming Commission;

3. Technical or scientific matters within the Gaming Commission's specialized knowledge; and

4. Codes or standards that have been adopted by an agency of the United States, of this state or of another state, or by a nationally recognized organization or association.

(b) Parties shall be notified before or during the hearing, or before the issuance of any final order that is based in whole or in part on facts or material noticed, of the specific facts or material noticed and the source thereof, including any staff memoranda and data, and shall be afforded an opportunity to contest and rebut the facts or material so noticed.

(13) Except as provided in subsection (14) of this section or unless required for the disposition of ex parte matters specifically authorized by statute, a presiding officer serving in an adjudicative proceeding shall not communicate, directly or indirectly, regarding any issue in the proceeding, while the proceeding is pending, with any party, with any

person who has a direct or indirect interest in the outcome of the proceeding, or with any person who presided at a previous stage of the proceeding, without notice and opportunity for all parties to participate in the communication.

(14) A member of a multimember panel of presiding officers may communicate with other members of the panel regarding a matter pending before the panel, and any presiding officer may receive aid from staff assistants if the assistants do not:

(a) Receive ex parte communications of a type that the presiding officer would be prohibited from receiving; or

(b) Furnish, augment, diminish, or modify the evidence in the record.

(15) Unless required for the disposition of ex parte matters specifically authorized by statute, no party to an adjudicative proceeding, and no person who has a direct or indirect interest in the outcome of the proceeding or who presided at a previous stage of the proceeding, shall communicate, directly or indirectly, in connection with any issue in that proceeding, while the proceeding is pending, with any person serving as presiding officer, without notice and opportunity to all parties to participate in the communication.

(16) If, before serving as presiding officer in an adjudicative proceeding, a person receives an ex parte communication of a type that would not properly be received while serving, the person, promptly after starting to serve, shall disclose the communication in the manner prescribed in subsection (17) of this section.

(17) A presiding officer who receives an ex parte communication in violation of this section shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the presiding officer received an ex parte communication, and shall advise all parties that these matters have been placed on the record. Any party desiring to rebut the ex parte communication shall be allowed to do so, upon requesting the opportunity for rebuttal within ten (10) days after notice of the communication.

(18) If necessary to eliminate the effect of an ex parte communication received in violation of this section, a presiding officer who receives the communication may be disqualified and the portions of the record pertaining to the communication may be sealed by protective order.

(19) The Gaming Commission shall, and any party may, report any willful violation of this section to appropriate authorities for any disciplinary proceedings provided by law. In addition, the Gaming Commission by rule may provide for appropriate sanctions, including default, for any violations of this section.

(20) Upon recommendation by the presiding officer, the Gaming Commission shall render a final order. The final order shall include, separately stated, findings of fact, conclusions of law, and policy reasons for the decision if it is an exercise of the Gaming Commission's discretion, for all aspects of the order, including the remedy prescribed and, if applicable, the action taken on a petition for stay of effectiveness. Findings of fact, if set forth in language that is more than mere repetition or paraphrase of the relevant provision of law, shall be accompanied by a concise and explicit statement of the underlying facts of record to support the findings. If a party has submitted proposed findings of fact, the order shall include a ruling on the proposed findings. The order shall also include a statement of the available procedures and time limits for seeking reconsideration or other administrative relief.

(21) Findings of fact shall be based exclusively upon the evidence of record in the adjudicative proceeding and on matters officially noticed in that proceeding. Findings shall be based upon the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their serious affairs and may be based upon such evidence even if it would be inadmissible in a civil trial. The presiding officer's experience, technical competence, and specialized knowledge may be utilized in evaluating evidence.

(22) If a person serving or designated to serve as presiding officer becomes unavailable, for any reason, before rendition of the final order or initial order, a substitute presiding officer shall be appointed as provided in subsection (5) of Section 19 of this Act. The substitute presiding officer shall use any existing record and may conduct any further proceedings appropriate in the interests of justice.

(23) The presiding officer may allow the parties a designated amount of time after conclusion of the hearing for the submission of proposed findings.

(24) A final order pursuant to this section shall be rendered in writing within ninety (90) days after conclusion of the hearing or after submission of proposed findings in accordance with subsection (23) of this section unless this period is waived or extended with the written consent of all parties or for good cause shown.

(25) The presiding officer shall cause copies of the final order or initial order to be delivered to each party and to the Gaming Commission.

SECTION 21. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) A party may submit to the presiding officer a petition for stay of effectiveness of a final order within seven (7) days after its rendition unless otherwise provided by statute or stated in the final order. The presiding officer may take action on the petition for stay, either before or after the effective date of the final order.

(2) Unless otherwise provided by statute or rule:

(a) Any party, within ten (10) days after rendition of a final order, may file a petition for reconsideration, stating the specific grounds upon which relief is requested. The filing of the petition is not a prerequisite for seeking

administrative or judicial review.

(b) The petition shall be disposed of by the same person or persons who rendered the final order, if available.

(c) The presiding officer shall render a written order denying the petition, granting the petition and dissolving or modifying the final order, or granting the petition and setting the matter for further proceedings. The petition may be granted, in whole or in part, only if the presiding officer states, in the written order, findings of fact, conclusions of law and policy reasons for the decision, if it is an exercise of the Gaming Commission's discretion, to justify the order. The petition shall be deemed to have been denied if the presiding officer does not dispose of it within twenty (20) days after the filing of the petition.

SECTION 22. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Unless a later date is stated in a final order or a stay is granted, a final order shall be effective ten (10) days after rendition, but:

(a) A party shall not be required to comply with a final order unless the party has been served with or has actual knowledge of the final order; and

(b) A nonparty shall not be required to comply with a final order unless the agency has made the final order available for public inspection and copying or the nonparty has actual knowledge of the final order.

(2) Unless a later date is stated in an initial order or a stay is granted, the time when an initial order becomes a final order shall be determined as follows:

(a) When the initial order is rendered, if administrative review is unavailable;

(b) When the Gaming Commission renders an order stating, after a petition for appeal has been filed, that review will not be exercised, if discretion is available to make a determination to this effect; or

(c) Ten (10) days after rendition of the initial order, if no party has filed a petition for appeal and the Gaming Commission has not given written notice of its intention to exercise review.

(3) Unless a later date is stated in an initial order or a stay is granted, an initial order that becomes a final order shall be effective ten (10) days after becoming a final order, but:

(a) A party shall not be required to comply with the final order unless the party has been served with or has actual knowledge of the initial order or of an order stating that review will not be exercised; and

(b) A nonparty shall not be required to comply with the final order unless the Gaming Commission has made the initial order available for public inspection and copying or the nonparty has actual knowledge of the initial order or of an order stating that review will not be exercised.

(4) This section does not preclude the Gaming Commission from taking immediate action to protect the public interest in accordance with Section 24 of this Act.

SECTION 23. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The Gaming Commission shall maintain an official record of each adjudicative proceeding under this chapter.

(2) The official record consists only of:

(a) Notices of all proceedings;

(b) Any prehearing order;

(c) Any motions, pleadings, briefs, petitions, requests, and intermediate rulings;

(d) Evidence received or considered;

(e) A statement of matters officially noticed;

(f) Proffers of proof and objections and rulings thereon;

(g) Proposed findings, requested orders, and exceptions;

(h) The record prepared for the presiding officer at the hearing, together with any transcript of all or part of the hearing considered before final disposition of the proceeding;

(i) Any final order, initial order, or order on reconsideration;

(j) Staff memoranda or data submitted to the presiding officer, unless prepared and submitted by personal assistants and not inconsistent with subsection (14) of Section 20 of this Act; and

(k) Matters placed on the record after an ex parte communication.

(3) Except to the extent that this chapter or another statute provides otherwise, the official record constitutes the exclusive basis for commission action in adjudicative proceedings under this chapter and for judicial review thereof.

SECTION 24. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

The Gaming Commission may issue an emergency order for suspension, limitation, or conditioning of a license or may issue an emergency order requiring a licensed electronic gaming establishment to keep any individual licensee from the premises of the licensed electronic gaming establishment or not to pay that licensee any remuneration for services or any profits, income, or accruals on his or her investment in the licensed electronic gaming establishment in the following manner:

(1) An emergency order may be issued only when the Gaming Commission believes that:

(a) Any licensee has willfully failed to report, pay, or truthfully account for and pay over any fee imposed by the provisions of this chapter or willfully attempted in any manner to evade or defeat any such fee or payment thereof;

(b) Any licensee or electronic gaming device employee has cheated at any electronic gaming device game; or

(c) This action is necessary for the immediate preservation of the public peace, health, safety, morals, good order, or general welfare.

(2) The emergency order shall set forth the grounds upon which it is issued, including a statement of facts constituting the alleged emergency necessitating such action.

(3) An emergency order may be issued only with the approval of and upon signature by not less than three (3) members of the Gaming Commission.

(4) The emergency order shall be effective immediately upon issuance and service upon the licensee or resident agent of the licensee or electronic gaming employee. The emergency order may suspend, limit, condition, or take other action in relation to the license of one or more persons in an operation without affecting other individual licensees or the licensed electronic gaming establishment. The emergency order shall remain effective until further order of the Gaming Commission or final disposition of the case.

(5) Within five (5) days after issuance of an emergency order, the executive director shall cause a complaint to be filed and served upon the person or entity involved. Thereafter, the person or entity against whom the emergency order has been issued and served shall be entitled to a hearing before the Gaming Commission in accordance with the provisions of Section 19 and Section 20 of this Act; and to judicial review of the decision and order of the commission thereon in accordance with the provisions of Section 25 of this Act.

SECTION 25. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

Any licensee or any applicant aggrieved by any order of the Gaming Commission may appeal to the Franklin Circuit Court within the time and in the manner provided by KRS 13B.140, 13B.150, and 13B.160.

SECTION 26. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The Gaming Commission shall by administrative regulation provide for the establishment of a list of persons who are to be excluded or ejected from any licensed electronic gaming establishment. The list may include any person whose presence in the establishment is determined by the Gaming Commission to pose a threat to the interests of this state or to licensed electronic gaming or both.

(2) (a) In making the determination under this section, the Gaming Commission may consider whether the person:

1. Has been convicted of any violation of this chapter or any crime constituting a felony related to theft, bribery, or gambling, unless at least ten (10) years have passed since satisfactory completion of the sentence or probation imposed by the court for each conviction;

2. Has been convicted of any illegal gambling activity in this or any other jurisdiction, unless at least ten (10) years have passed since satisfactory completion of the sentence or probation imposed by the court for each conviction; or

3. Has made a statement of material fact to the Gaming Commission, knowing such statement to be false, unless at least ten (10) years have passed since the statement was made.

(b) Race, color, creed, national origin, ancestry, or sex shall not be grounds for placing the name of a person upon the list identified in this section.

(3) In addition to the foregoing, each electronic gaming licensee shall have the common law right to exclude or eject patrons or others, whether licensed, registered, or otherwise approved under this chapter, from the licensee's gaming establishment. The commission shall be notified of any such exclusion or ejection within three (3) days of such actions.

SECTION 27. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

When requested by the Gaming Commission, the Attorney General of the Commonwealth of Kentucky, or such assistant attorney general as he or she may designate, shall, without additional compensation, advise the Gaming Commission and represent it in all legal proceedings.

SECTION 28. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The Gaming Commission shall adopt such administrative regulations governing the operation of electronic gaming devices consistent with the provisions of this chapter as the Gaming Commission deems necessary in order that the operation of electronic gaming devices shall be initiated at the earliest feasible time after the effective date of this Act and shall produce the maximum amount of gaming income consistent with the dignity of the state and the protection of the public. The administrative regulations shall provide for all matters necessary for the secure, fair, efficient, and economical operation of electronic gaming devices consistent with the provisions of this chapter, including but not limited to the following:

(a) Licensing of electronic gaming device operators, electronic gaming device operations managers, electronic

gaming device distributors, electronic gaming device employees, electronic gaming device manufacturers, and others to ensure the suitability of those permitted to own, lease, operate, work in, do business with, and invest in electronic gaming devices, including setting application fees and annual fees for licensing, but which application fees shall not exceed ten thousand dollars ($10,000) per application for electronic gaming device operators and electronic gaming device manufacturers, one hundred dollars ($100) per application for electronic gaming device operations managers and one hundred dollars ($100) per application for electronic gaming device distributors, and which annual fees for licensing shall not exceed ten dollars ($10) for electronic gaming device employees and others;

(b) Oversight and management of the Gaming Commission's central computer system for electronic gaming devices;

(c) Inspection and approval of electronic gaming devices and associated equipment, and adopting specifications and standards for electronic gaming devices and associated equipment, including hardware and software;

(d) Adopting reporting requirements for electronic gaming device operators, electronic gaming device employees, electronic gaming device manufacturers, and others as necessary to ensure secure operation of electronic gaming devices; and

(e) Examination of all accounts, bank accounts, financial statements, and records of any licensee in a licensee's possession or under its control and relating to the operation of electronic gaming devices.

(2) In adopting, amending, or repealing administrative regulations, the Gaming Commission shall comply with the provisions of KRS Chapter 13A.

SECTION 29. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Any other provision of law to the contrary notwithstanding, the Gaming Commission is authorized to implement and regulate the operation of electronic gaming devices exclusively by eligible associations at licensed racetracks at certain pari-mutuel racing facilities in this state in accordance with the provisions of this chapter. The Gaming Commission shall oversee the operation of electronic gaming devices to ensure that all applicable laws are administered for the protection of the public in accordance with the provisions of this chapter.

(2) The Gaming Commission, in addition to any other powers granted by this chapter, shall have the powers necessary and proper to carry out and effectuate the provisions of this chapter relating to electronic gaming devices, including the power to:

(a) Install and operate Gaming Commission-approved telecommunications lines to provide a direct communication between each electronic gaming device and the Gaming Commission's central computer system for the transmission to the Gaming Commission of relevant data;

(b) Link all electronic gaming devices to the Gaming Commission's central computer system to transmit relevant data using procedures approved by the Gaming Commission. The central computer system used by the Gaming Commission may not limit participation to only one (1) manufacturer of electronic gaming devices, and in no event shall any manufacturer account for more than fifty percent (50%) of available electronic gaming device games presented for play by any electronic gaming device operator;

(c) Employ necessary personnel to effectively carry out its responsibilities under this chapter;

(d) Conduct criminal background investigations on all applicants for licenses relating to electronic gaming device games under this chapter with any assistance, as necessary, from the Kentucky State Police. The Gaming Commission shall reimburse the Kentucky State Police for the actual costs of any investigative assistance provided;

(e) Provide for the allocation and disbursement of gaming income paid to the Gaming Commission as provided in Section 35 of this Act;

(f) Inspect all premises at which electronic gaming devices are operated or manufactured, sold or distributed, and inspect all related equipment and supplies at such premises;

(g) Demand access to and inspect, photocopy, and examine all papers, books, and records of any applicant or licensee, on its premises or elsewhere as practicable, and in the presence of the applicant or licensee, or its agent, relating to the gaming income produced by the operation of electronic gaming devices, and other matters affecting the enforcement of the provisions of this chapter; and

(h) Submit quarterly and annual reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing financial statements which shall include, but not be limited to, the progress of implementing the operation of electronic gaming devices, the allocation and distribution of gaming income and Gaming Commission expenses relating to the electronic gaming devices.

SECTION 30. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) An electronic gaming device manufacturer and a electronic gaming device distributor may not sell, lease, or otherwise transfer an electronic gaming device or associated equipment for placement at a licensed racetrack in this state unless the electronic gaming device and associated equipment have been approved by the Gaming Commission. Only electronic gaming device manufacturers or electronic gaming device operators may apply for approval of an electronic

gaming device or associated equipment. The electronic gaming device manufacturer or the electronic gaming device operator shall submit to the Gaming Commission two (2) copies of electronic gaming device illustrations, schematics, block diagrams, circuit analysis, technical and operation manuals, and any other information requested by the Gaming Commission for the purpose of analyzing and testing the electronic gaming device or associated equipment.

(2) An electronic gaming device manufacturer or electronic gaming device operator which applies for approval as described in subsection (1) of this section shall pay all costs of testing, examination, analysis, and transportation of the prototypes of electronic gaming devices and associated equipment for which such application is made. The Gaming Commission may require that the electronic gaming device manufacturer or electronic gaming device operator provide specialized equipment or pay for the services of an independent technical expert to conduct the tests. If any electronic gaming device or associated equipment fails the acceptance test conducted by the Gaming Commission, the electronic gaming device manufacturer shall make all modifications required by the Gaming Commission.

(3) Each electronic gaming device and associated equipment approved for placement at a licensed racetrack shall conform to the exact specifications of the prototype tested and approved by the Gaming Commission. An electronic gaming device manufacturer or electronic gaming device operator shall not change the assembly or operational functions of an electronic gaming device or associated equipment licensed for placement in this state unless a request for modification of an existing prototype is approved by the Gaming Commission. The request shall contain a detailed description of the type of change, the reasons for the change, and technical documentation of the change. If any electronic gaming device or associated equipment which has not been approved by the Gaming Commission is supplied by a manufacturer and operated by a licensed racetrack, the Gaming Commission shall direct that the use of that licensed racetrack's and manufacturer's noncomplying electronic gaming devices and associated equipment cease immediately.

(4) In those cities, counties, urban-county governments, charter county governments, or consolidated local governments which have engaged in planning operations pursuant to KRS Chapter 100, facilities developed for the activities contemplated by this chapter shall be deemed to be permitted accessory uses to licensed racetracks without further approval from the applicable planning unit or body whether or not such facilities are specifically cited in the applicable zoning regulations. These facilities shall also be deemed to be permitted uses in all zones in which the applicable zoning regulations allow licensed racetracks, subject only to the permitting requirements and conditions upon which racetracks are allowed, whether or not these facilities are specifically cited in such regulations and whether or not these facilities are located on the same premises as a licensed racetrack.

(5) No racetrack shall engage in electronic gaming under the provisions of this chapter, nor shall any racetrack qualify to be licensed as an electronic gaming device operator, if any person having an ownership interest in that racetrack sells property, goods, or services related to electronic gaming to eligible associations, to the Kentucky Lottery Corporation under KRS Chapter 154A, or to electronic gaming device operators under this chapter.

SECTION 31. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Application for any license under this chapter shall be made to the Gaming Commission on forms furnished by the Gaming Commission and in accordance with administrative regulations adopted by the Gaming Commission. Not later than fifteen (15) days after the effective date of this Act, the Gaming Commission shall have taken all actions necessary to furnish application forms to applicants, and to cause the Gaming Commission and its staff to be prepared to receive, process, and act upon these applications.

(2) The application for a license shall include:

(a) The name of the proposed licensee;

(b) In the case of an electronic gaming device operator, the location of the proposed operation;

(c) In the case of an electronic gaming device operator, the electronic gaming devices to be operated; and

(d) Such other information and details as the Gaming Commission may require.

(3) The Gaming Commission shall furnish to the applicant supplemental forms which the applicant shall complete and file with the application. The supplemental forms shall require, but shall not be limited to, complete information and details with respect to the applicant's criminal record, business activities, financial affairs and business associates, covering at least a ten (10) year period immediately preceding the date of filing of the application.

(4) In the case of an electronic gaming device operator, the applicant shall also submit to the Gaming Commission a copy of the application previously submitted to the Racing Commission for licensure as a racetrack under KRS Chapter 230, and a copy of the license that was subsequently issued by the Racing Commission, and the Gaming Commission shall keep confidential all matters or material contained therein required to be kept confidential by the Racing Commission pursuant to KRS Chapter 230.

(5) Upon a determination by the Gaming Commission of the suitability of the applicant based on criteria established in this chapter, the Gaming Commission shall issue the requested license.

SECTION 32. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) No license shall be granted under this chapter unless the Gaming Commission has determined that the applicant satisfies all of the following qualifications:

(a) An applicant for a electronic gaming device operator license shall be an eligible association which holds a valid

license as a racetrack under KRS Chapter 230;

(b) An applicant for any license under this chapter shall be a person of good character and integrity;

(c) An applicant for any license under this chapter shall be a person whose background, including criminal record, reputation, and associations, does not pose a threat to the security and integrity of electronic gaming device games or to the public interest of the state. All new applicants for licenses issued by the Gaming Commission shall furnish fingerprints for a national criminal records check by the Gaming Commission or its division of security and the Federal Bureau of Investigation. Investigative assistance may be provided by the Kentucky State Police in accordance with subsection (2)(d) of Section 29 of this Act. Fingerprints shall be furnished by all persons required to be named in the application and shall be accompanied by a signed authorization for the release of information by the Kentucky State Police and the Federal Bureau of Investigation. The Gaming Commission shall revoke the license of any person who is convicted of any of the violations or crimes referenced in this subsection;

(d) No applicant shall be granted a license under this chapter who:

1. Has been convicted of any violation of this chapter or any crime constituting a felony related to theft, bribery, or gambling, unless at least ten (10) years have passed since satisfactory completion of the sentence or probation imposed by the court for each conviction;

2. Has been convicted of any illegal gambling activity in this or any other jurisdiction, unless at least ten (10) years have passed since satisfactory completion of the sentence or probation imposed by the court for each conviction; or

3. Has made a statement of material fact to the Gaming Commission, knowing such statement to be false, unless at least ten (10) years have passed since the statement was made.

(e) An applicant for any license under this chapter shall demonstrate the business ability and experience necessary to establish, operate, and maintain the business for which the license application is made which, with respect to an electronic gaming device operator, may be demonstrated through the retention of an electronic gaming device operations manager;

(f) An applicant for any license under this chapter shall have secured adequate financing for the business for which the license application is made. The Gaming Commission shall determine whether financing is adequate to support the successful performance of the duties and responsibilities of the licensee. An applicant for an electronic gaming device operator license shall disclose all financing or refinancing arrangements for the purchase, lease, or other acquisition of electronic gaming devices and associated equipment in the degree of detail requested by the Gaming Commission. An electronic gaming device operator shall request Gaming Commission approval of any change in financing or lease arrangements for the purchase, lease, or other acquisition of electronic gaming devices and associated equipment at least thirty (30) days before the effective date of the change and the Gaming Commission shall act upon such application within thirty (30) days after receipt of such request; and

(g) An applicant for an electronic gaming device operator license or a license renewal shall file with the Gaming Commission a copy of any current or proposed agreement between the applicant and any manufacturer for the sale, lease, or other transfer to the racetrack of electronic gaming devices and associated equipment.

(2) No license shall be granted to an applicant for any license under this chapter until the Gaming Commission determines that each person who has control of the applicant meets all applicable qualifications of subsection (1) of this section.

(3) An applicant for any license under this chapter shall furnish all information, including financial data and documents, certifications, consents, waivers, individual history forms, and other materials necessary for the purpose of determining qualifications for a license. No license shall be granted to an applicant who fails to provide this information and documentation. The burden of proving qualification for any license is on the applicant.

(4) An applicant for any license under this chapter bears all risks of adverse public notice, embarrassment, criticism, damages, or financial loss which may result from the disclosure or publication of any material or information obtained by the Gaming Commission pursuant to action on an application. The applicant shall, as a part of its application, expressly waive any and all claims against the Gaming Commission, the Commonwealth of Kentucky, and the employees of either for damages as a result of any background investigation, disclosure, or publication relating to an application for a license under this chapter.

(5) All application, registration, and disclosure forms and other documents submitted to the Gaming Commission by or on behalf of the applicant for the purpose of determining qualification for a license shall be sworn to or affirmed before an officer qualified to administer oaths.

(6) An applicant for any license under this chapter who knowingly fails to reveal any fact material to qualification or who knowingly submits false or misleading material information is ineligible for the license.

(7) Two (2) or more eligible associations which operate racetracks in the same county may enter an agreement to operate a joint electronic gaming device facility at the licensed racetrack of either association and may apply for and be granted a joint license under this chapter. The agreement between the associations may address such matters as the

associations deem appropriate, including the location of the facility, responsibility for management of the facility, and the allocation of prize moneys and expenses between the associations.

SECTION 33. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Each electronic gaming device operator license issued by the Gaming Commission to an eligible association shall be subject to the following qualifications and limitations:

(a) Electronic gaming devices shall be located only on the premises of a racetrack owned and/or leased and operated by an eligible association.

(b) Except as described in paragraph (c) of this subsection, any eligible association which desires to operate electronic gaming devices shall during each year make application to the Racing Commission for and receive no less than one hundred percent (100%) of the number of racing days awarded to the racetrack in 2001 and one hundred percent (100%) of the number of races scheduled to be run by the racetrack in 2001.

(c) Any eligible association may apply for and/or receive less than one hundred percent (100%) of the number of racing days awarded to the racetrack in 2001 or one hundred percent (100%) of the number of races scheduled to be run by the racetrack in 2001, only if written approval is obtained from the Kentucky Division of the Horsemen's Benevolent and Protective Association and the Kentucky Thoroughbred Owners and Breeders Association, Inc., or their successors, for thoroughbred races, and the Kentucky Harness Horsemen's Association, or its successor, for standardbred racing. Any racing days so reduced shall be awarded by the Racing Commission to another eligible association.

(2) An electronic gaming device operator license shall be valid for a period of four (4) years, unless revoked prior to its expiration by the Gaming Commission.

(3) An application for an electronic gaming device operator license may be denied, or an electronic gaming device operator license issued to a licensee may be revoked or not renewed, only for the following causes:

(a) The applicant does not meet or the licensee has ceased to meet the requirements for issuance of an electronic gaming device operator license;

(b) The licensee has committed fraud in securing an electronic gaming device operator license;

(c) The applicant or the licensee has made a material misrepresentation of fact on an application for an electronic gaming device operator license or license renewal;

(d) The license to conduct horse racing issued under KRS Chapter 230 has been suspended, revoked, or denied, in which case the electronic gaming device operator license shall be denied, revoked, or not renewed;

(e) Gaming income generated through the operation of electronic gaming devices has not been remitted to the Gaming Commission in accordance with Section 35 of this Act;

(f) The licensee has tampered with an electronic gaming device game or electronic gaming device by any means, including the use of an electronic, electrical, or mechanical device, which is designed, constructed, or programmed specifically for use in obtaining an advantage at playing any electronic gaming device game; or

(g) The licensee has engaged in an activity which is a violation of a provision of this chapter or an administrative regulation promulgated under this chapter, the nature of which would render the licensee unsuitable to continue to operate as a licensed electronic gaming device operator.

(4) An electronic gaming device operator license shall not be transferred without the prior approval of the Gaming Commission. Any transferee of an electronic gaming device operator license shall meet the eligibility requirements for licensure under this chapter. Any one transaction or series of transactions in any twelve (12) month period which results in a change of control of the electronic gaming device operator shall be deemed a transfer, and shall require the purchasing person or entity to file with the Gaming Commission such suitability applications as are required by the Gaming Commission. If all such applications have been filed and the Gaming Commission does not object to the transfer within thirty (30) days the transfer may be consummated, subject to the right of the Gaming Commission to order the purchasing person or entity to divest its interest on terms prescribed by the Gaming Commission, if the purchasing person or entity is found not suitable after investigation and a hearing. Any order of divestment shall contain terms that will protect the ongoing operations of the electronic gaming device operator.

(5) The total number of electronic gaming device operator licenses issued at any one time by the Gaming Commission shall not exceed eight (8). Only one (1) license shall be issued to a licensed racetrack; provided, if any eligible association owns and operates more than one (1) licensed racetrack, the eligible association may apply for and be issued a license for each of these racetracks.

SECTION 34. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Electronic gaming devices may be purchased, leased, or otherwise acquired only by an electronic gaming device operator and shall be obtained only from electronic gaming device manufacturers or electronic gaming device distributors licensed by the Gaming Commission.

(2) Each electronic gaming device operator shall be responsible for the following:

(a) Installation and maintenance of the electronic gaming devices and associated equipment which it operates,

including the cost of any necessary capital improvements;

(b) The security and safekeeping of the electronic gaming devices and associated equipment which it operates;

(c) Coordination of its electronic gaming devices and associated equipment with the Gaming Commission's central computer system;

(d) Incorporation of multifunction electronic gaming devices and associated equipment which are able to conduct both electronic gaming device games and pari-mutuel wagering on horse racing;

(e) The hiring of adequate personnel to ensure compliance with the provisions of this chapter relating to the operation of electronic gaming devices, including sufficient security personnel to protect and secure electronic gaming devices and monitor access to the area where the electronic gaming devices are located;

(f) Reporting promptly to the electronic gaming device manufacturer and the Gaming Commission all electronic gaming device malfunctions and notifying the Gaming Commission of the failure of an electronic gaming device manufacturer or service technician to provide prompt service and repair of malfunctioning electronic gaming devices and associated equipment;

(g) Providing adequate training for all personnel who interact with patrons in electronic gaming device areas to report suspected pathological gamers to supervisors. The training, at a minimum, shall consist of information concerning the nature and symptoms of pathological gaming behavior, the causes and known risks of such behavior, and assisting patrons in obtaining information about pathological gaming and available options for seeking assistance for such behavior; provided, nothing in this section shall require an electronic gaming device operator, the Gaming Commission, the Racing Commission, or their employees or agents to identify persons with problem or compulsive gaming problems which is an activity that requires medical and clinical expertise; and provided further, neither the state, the Gaming Commission, the Racing Commission, an electronic gaming device operator, or their agents or employees shall be liable to any person as a result of implementing the provisions in this section, any related regulations, or any other responsible gaming programs required by or on behalf of the state, the Gaming Commission, the Racing Commission, an electronic gaming device operator, or their agents or employees;

(h) Adopting procedures for distributing or posting within the facility information that promotes public awareness about underage, problem gaming and provides information on available services and resources;

(i) Remitting to the Gaming Commission gaming income in accordance with Section 35 of this Act; and

(j) Operating electronic gaming devices in conformity with the provisions of this chapter and all administrative regulations promulgated under this chapter.

(3) Each electronic gaming device operator shall determine the following pertaining to the electronic gaming devices located on its premises:

(a) Number of electronic gaming devices;

(b) Dates and hours during which the electronic gaming devices are available for play. Electronic gaming devices may be operated on the premises of an electronic gaming device operator even when the racetrack is not conducting pari-mutuel wagering on races;

(c) Mix of games available for play on the electronic gaming devices, including progressive games;

(d) Utilization of coins, currency, tokens, vouchers, electronic credits, or scrip;

(e) Location and movement of electronic gaming devices on the premises;

(f) Staffing of electronic gaming device operations on the premises;

(g) The minimum and maximum betting amounts; and

(h) The payout based upon a suitable range as determined by the electronic gaming device operator, with a minimum of eighty percent (80%) and a maximum of ninety-seven percent (97%).

(4) Each electronic gaming device operator shall provide to the Gaming Commission and the Racing Commission access to all records of the licensee and the physical premises where the electronic gaming device operator's electronic gaming device activities occur for the purpose of monitoring or inspecting the electronic gaming device operator's activities and the electronic gaming devices and associated equipment.

SECTION 35. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The portion of the annual gaming income for each calendar year of each electronic gaming device operator specified in paragraph (a) of this subsection shall be paid to the Gaming Commission as specified in paragraph (b) of this subsection, and shall be allocated and distributed by the Gaming Commission as specified in subsection (1)(c) to (f) of this section.

(a) A percentage of the annual gaming income shall be paid to the Gaming Commission, based on the following range:

1. Twenty-eight percent (28%) of the annual gaming income not exceeding fifty million dollars ($50,000,000);

2. *Thirty-six and forty-four one hundredths percent (36.44%) of the annual gaming income exceeding fifty million dollars ($50,000,000) but not exceeding one hundred million dollars ($100,000,000);*

3. *Thirty-nine and forty-four one hundredths percent (39.44%) of the annual gaming income exceeding one hundred million dollars ($100,000,000) but not exceeding one hundred fifty million dollars ($150,000,000);*

4. *Forty and forty-four one hundredths percent (40.44%) of the annual gaming income exceeding one hundred fifty million dollars ($150,000,000) but not exceeding two hundred million dollars ($200,000,000); and*

5. *Forty-one and forty-four one hundredths percent (41.44%) of the annual gaming income exceeding two hundred million dollars ($200,000,000).*

(b) On or before the third business day of each week, each electronic gaming device operator shall pay to the Gaming Commission a percentage of the gaming income collected by the electronic gaming device operator during the preceding week, such percentage to be determined as specified in paragraph (a) of this subsection by reference to the cumulative amount of gaming income collected by the electronic gaming device operator during the current calendar year, through the last day of such preceding week.

(c) The funds described in paragraph (a) of this subsection shall be applied first, to the administrative costs and expenses of the Gaming Commission relating to electronic gaming device games including, but not limited to, administrative expenses and payroll and other employment costs attributable to the regulation of electronic gaming device games by the Gaming Commission, and expenses attributable to operation of the central computer system. Beginning with the third calendar year of implementation of the operation of electronic gaming devices authorized under this chapter, the administrative costs and expenses of the Gaming Commission shall not exceed four percent (4%) of the total gaming income for each calendar year. Implementation shall be deemed to have commenced when one (1) electronic gaming device licensee allows the play of electronic gaming devices on its premises.

(d) After payment of the costs and expenses described in paragraph (c) of this subsection, an amount equal to twenty-five one hundredths of one percent (0.25%) of the annual gaming income shall be dedicated for local economic development and shall be distributed by the Gaming Commission as follows:

1. *If the electronic gaming device operator is located in an incorporated area, fifty percent (50%) shall be distributed to the governing body of the city in which the racetrack is located, and fifty percent (50%) to the governing body of the county in which the racetrack is located.*

2. *If the electronic gaming device operator is located in an unincorporated area, fifty percent (50%) shall be distributed to the governing body of the largest city in the county in which the racetrack is located, and fifty percent (50%) to the governing body of the county in which the racetrack is located.*

3. *Notwithstanding subparagraphs 1. and 2. of this paragraph, if the electronic gaming device operator is located within a county that has adopted the urban-county form of government as provided in KRS Chapter 67A, one hundred percent (100%) shall be distributed to the governing body of the urban-county government, and if the electronic gaming device operator is located within a county containing a consolidated local government as provided in KRS Chapter 67C, one hundred percent (100%) shall be distributed to the governing body of the consolidated local government.*

(e) After payment of the costs and expenses described in paragraph (c) of this subsection, an amount equal to five one hundredths of one percent (.05%) of the annual gaming income shall be deposited by the Gaming Commission in a trust and revolving fund, to be known as the problem gambling fund. This fund shall be administered by the Problem Gambling Fund Committee. The Problem Gambling Fund Committee shall be composed of not less than four (4) members, with one-half (1/2) of the members appointed by the Kentucky Association for Problem Gaming, or its successor, and one-half (1/2) of the members appointed by the Gaming Commission. Funds deposited in the problem gambling fund shall be made available by the committee to fund the development and operation of problem gambling education, prevention, and treatment programs. The committee shall strive to allocate funds as they are generated so that, after an appropriate needs assessment, all available funds are allocated on a current basis.

(f) All funds described in paragraph (a) of this subsection that are not applied or distributed by the Gaming Commission as provided in paragraphs (c) to (e) of this subsection shall be paid by the Gaming Commission into the general fund of the Commonwealth of Kentucky. The funds described in this paragraph shall be appropriated from the general fund as follows:

1. *All of the funds in fiscal year 2002-2003 shall be appropriated to the Department of Education for distribution through the fund to Support Education Excellence in Kentucky (SEEK), to increase the SEEK formula, to restore funding to the Kentucky Education Reform Act strands and continuing general fund grant programs administered by the Department of Education in support of program needs of local school districts, and for teacher compensation. In each fiscal year thereafter, the funds shall be appropriated as follows:*

2. Seven percent (7%) for a prescription drug program for senior citizens; and

3. Seven percent (7%) for health and human services including, but not limited to, mental illness and substance abuse services; and

4. Six percent (6%) for environmental cleanup and enhancement programs including, but not limited to, solid waste and landfill closure and cleanup directed by the Natural Resources and Environmental Protection Cabinet, and to environmental programs directed by the Department of Fish and Wildlife Resources; and

5. Forty percent (40%) to support the Kentucky Education Reform Act and general education purposes; and

6. Twenty-five percent (25%) for capital construction including, but not limited to, debt service to support community development projects, public infrastructure, elementary and secondary education construction projects through the School Facilities Construction Commission, and postsecondary education construction projects; and

7. Fifteen percent (15%) for replenishment of the budget reserve trust fund until the budget reserve trust fund equals five percent (5%) of general fund annual revenues. Amounts not necessary to achieve the five percent (5%) level of the budget reserve trust fund shall be appropriated for basic state services supported by the general fund.

(2) The portion of the annual gaming income for each calendar year of each electronic gaming device operator specified in paragraph (a) of this subsection shall be allocated and distributed by the electronic gaming device operator solely for the purposes described in paragraphs (b) to (g) of this subsection.

(a) The portion of the gaming income to be so allocated and distributed by the electronic gaming device operator shall be a percentage of the annual gaming income, based upon the following range:

1. Ten percent (10%) of the annual gaming income not exceeding fifty million dollars ($50,000,000);

2. Eleven and seventy-eight one hundredths percent (11.78%) of the annual gaming income exceeding fifty million dollars ($50,000,000) but not exceeding one hundred million dollars ($100,000,000);

3. Fourteen and twenty-eight one hundredths percent (14.28%) of the annual gaming income exceeding one hundred million dollars ($100,000,000) but not exceeding one hundred fifty million dollars ($150,000,000);

4. Fourteen and seventy-eight one hundredths percent (14.78%) of the annual gaming income exceeding one hundred fifty million dollars ($150,000,000) but not exceeding two hundred million dollars ($200,000,000); and

5. Fifteen and twenty-eight one hundredths percent (15.28%) of the annual gaming income exceeding two hundred million dollars ($200,000,000).

(b) From the funds described in paragraph (a) of this subsection, each electronic gaming device operator which conducts thoroughbred racing shall retain an amount equal to fifty percent (50%) of such funds. On or before the third business day of each week, such retained amount shall be paid and applied as set forth in paragraph (e) of this subsection.

(c) From the funds described in paragraph (a) of this subsection, on or before the third business day of each week, each electronic gaming device operator which conducts standardbred racing shall deposit an amount equal to twenty percent (20%) of such funds to a subaccount of the purse fund of the electronic gaming device operator to be used to supplement standardbred races designated for horses that were sired by standardbred stallions domiciled in Kentucky, and shall further deposit an amount equal to five percent (5%) of such funds to a subaccount of the purse fund of the electronic gaming device operator to be used to supplement standardbred races designated for horse racing at county fair programs in Kentucky.

(d) From the funds described in paragraph (a) of this subsection, on or before the third business day of each week, each electronic gaming device operator which conducts thoroughbred racing shall allocate and distribute, as specified in this paragraph, an amount equal to fifty percent (50%) of such funds. The electronic gaming device operator shall pay or retain, to each eligible association (including the electronic gaming device operator) which conducted a live thoroughbred race meeting at any time during the immediately preceding calendar year an amount equal to that portion of the amount described in this paragraph that corresponds to the ratio of the total association purses paid by the eligible association in the immediately preceding calendar year (not including any portion of these purses paid from funds received under this paragraph and paragraph (b) of this subsection) compared to the total association purses paid in the immediately preceding calendar year by all eligible associations conducting thoroughbred race meetings in the immediately preceding calendar year (not including any portion of such purses paid from funds received under this paragraph and paragraph (b) of this subsection). Notwithstanding the foregoing, eligible associations which are parties to an agreement entered into pursuant to subsection (7) of Section 32 of this Act may agree to allocate amongst themselves amounts received by them under this paragraph.

(e) The funds retained or received by a electronic gaming device operator under paragraph (b) and paragraph (d) of this subsection shall be allocated by the electronic gaming device operator as follows:

1. A percentage of such funds, not less than ten percent (10%) but not to exceed forty percent (40%), as authorized by the Racing Commission after the advice and assistance of the Kentucky Thoroughbred Development Fund Advisory Committee established pursuant to KRS 230.400, shall be paid as Kentucky thoroughbred development fund purse supplements;

2. A percentage of such funds, not less than ten percent (10%) but not to exceed twenty percent (20%), as authorized by the Racing Commission after the advice and assistance of the Kentucky Thoroughbred Development Fund Advisory Committee, shall be paid as Kentucky thoroughbred claiming fund purse supplements;

3. The remaining amount of these funds shall be allocated to the purse money paid at race meetings conducted by the electronic gaming device operator.

4. This chapter hereby establishes a trust and revolving fund for the Racing Commission, designated as the Kentucky thoroughbred claiming fund, consisting of money allocated to the fund under the provisions of this chapter. Money to the credit of the Kentucky thoroughbred claiming fund shall be distributed by the State Treasurer for the purposes of this chapter upon authorization of the Racing Commission and upon approval of the secretary of the Finance and Administration Cabinet. Money to the credit of the Kentucky thoroughbred claiming fund at the end of each fiscal year shall not lapse, but shall be carried forward in this fund to the succeeding fiscal year. The Kentucky thoroughbred claiming fund shall be governed by the same administrative rules and regulations as apply to the Kentucky thoroughbred development fund, as may be supplemented by the Racing Commission.

(f) From the funds described in paragraph (a) of this subsection, and after subtraction of the amount applied pursuant to paragraph (c) of this subsection, on or before the third business day of each week, each electronic gaming device operator which conducts standardbred racing shall deposit the balance of these funds to the purse fund of such electronic gaming device operator to be used exclusively to supplement purse money paid at race meetings conducted by the electronic gaming device operator. Unless otherwise provided in an agreement entered into pursuant to subsection (7) of Section 32 of this Act, if the funds to be so applied to purses exceed an average of one hundred fifty thousand dollars ($150,000) per day of live racing, then the electronic gaming device operator shall cooperate with the Harness Horsemen's Association in making application to the Racing Commission for additional live racing dates for the following year; or the electronic gaming device operator may assign a portion of these funds, not to exceed thirty percent (30%), to another licensed standardbred track which was licensed by the Racing Commission to conduct standardbred racing prior to January 1, 2001, and is conducting electronic gaming device gaming, to support the purse fund of such track; or by agreement with the Kentucky Harness Horsemen's Association, the electronic gaming device operator may increase the funds to be so applied above one hundred fifty thousand dollars ($150,000) per day.

(g) The funds allocated and distributed under paragraphs (c) and (f) of this subsection shall be applied only to standardbred racing purses, regardless of the breed of racing conducted at a facility licensed to conduct standardbred racing.

(3) The portion of the gaming income of each electronic gaming device operator not paid to the Gaming Commission as provided in subsection (1) of this section and not allocated and distributed by the electronic gaming device operator as provided in subsection (2) of this section shall be retained by the electronic gaming device operator, which shall allocate and distribute the funds as specified in paragraphs (b) to (d) of this subsection.

(a) The amounts of annual gaming income for each calendar year of each electronic gaming device operator to be allocated and distributed pursuant to this subsection are calculated as follows:

1. Sixty-two percent (62%) of the annual gaming income not exceeding fifty million dollars ($50,000,000);

2. Fifty-one and seventy-eight one hundredths percent (51.78%) of the annual gaming income exceeding fifty million dollars ($50,000,000) but not exceeding one hundred million dollars ($100,000,000);

3. Forty-six and twenty-eight one hundredths percent (46.28%) of the annual gaming income exceeding one hundred million dollars ($100,000,000) but not exceeding one hundred fifty million dollars ($150,000,000);

4. Forty-four and seventy-eight one hundredths percent (44.78%) of the annual gaming income exceeding one hundred fifty million dollars ($150,000,000) but not exceeding two hundred million dollars ($200,000,000); and

5. Forty-three and twenty-eight one hundredths percent (43.28%) of the annual gaming income exceeding two hundred million dollars ($200,000,000).

(b) An amount equal to twenty-five hundredths of one percent (.25%) of annual gaming income shall be spent by the electronic gaming device operator for capital improvements to its backside racing facilities. On or before February 1 of each year, the electronic gaming device operator shall provide a written statement to the Racing Commission, certified by an officer of the electronic gaming device operator, providing an accounting of the

funds expended under this paragraph. The Racing Commission may promulgate administrative regulations concerning the expenditure of those funds, including any carryover to future periods, and may take into account any failure to comply with this subsection in any licensing determination made by the Racing Commission. As used in this paragraph, "capital improvement" means any addition, replacement, or remodeling of a structural unit of the backside of a racetrack, as defined in KRS 230.218, including but not limited to the construction of barns used for the racetrack, backstretch facilities for horsemen, paddock facilities, the installation of permanent new heating or air conditioning, and installations of a permanent nature forming a part of the backside of the track.

(c) An amount equal to one-tenth of one percent (0.1%) of annual gaming income shall be paid by the electronic gaming device operator to the horsemen's groups representing the horsemen of the electronic gaming device operator's racetrack, as follows:

1. In the case of electronic gaming device operators which conduct thoroughbred racing, fifty percent (50%) to the Kentucky Division of the Horsemen's Benevolent and Protective Association, or its successor, and fifty percent (50%) to the Kentucky Thoroughbred Owners and Breeders Association, or its successor; and

2. In the case of electronic gaming device operators which conduct standardbred racing, to the Kentucky Harness Horsemen's Association.

(d) All funds described in this subsection that are not allocated or distributed as provided in paragraphs (b) or (c) of this subsection shall be applied first to the operating expenses incurred by the electronic gaming device operator, including but not limited to costs of payroll, equipment purchase or lease, supplies, advertising and promotions, training of employees, uniforms, utilities, insurance, depreciation, and other reasonable expenses of operating electronic gaming devices, and second to any other lawful costs, expenditures, and expenses of the racetrack in Kentucky.

(4) On or before the third business day of each week, each electronic gaming device operator shall provide a written statement to the Gaming Commission and to the Racing Commission, certified by an officer of the electronic gaming device operator, providing an accounting of the funds paid, allocated, and distributed under subsections (1)(b), (2)(b), (2)(c), (2)(d), (2)(e), and (2)(f) of this section.

(5) For purposes of subsections (1), (2), and (3) of this section, each of the associations jointly licensed to operate an electronic gaming device facility pursuant to this chapter shall be treated as an individual electronic gaming device operator having annual gaming income equal to the total annual gaming income for the jointly licensed facility divided by the number of associations jointly licensed to operate the facility. The jointly licensed facility may file a single statement for the joint facility in compliance with subsection (4) of this section provided that the payments, allocations, and distributions applicable to each association are reflected separately in the statement.

SECTION 36. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Each electronic gaming device operator shall file with the Gaming Commission a report of each change in its officers, directors, and any other senior management employee of the electronic gaming device operator required to be licensed pursuant to the chapter. The Gaming Commission shall have thirty (30) days within which to approve or disapprove such change. During such thirty (30) day period and thereafter if the Gaming Commission does not disapprove the change, the officer or director or other person required to be so licensed shall be entitled to exercise any powers of the office or position to which he or she was so elected or appointed.

(2) The Gaming Commission may require that each electronic gaming device operator furnish the Gaming Commission with a copy of its federal income tax return within thirty (30) days after the return is filed with the Internal Revenue Service, and if this tax return is provided the Gaming Commission shall keep the tax return confidential.

(3) Each electronic gaming device operator shall adopt an internal control system which shall include but not be limited to provisions for:

(a) The safeguarding of its assets and revenues relating to electronic gaming device games, especially the recording of cash and evidences of indebtedness; and

(b) The maintenance of reliable accounts and records of transactions, operations, and events relating to electronic gaming device games.

(4) The internal control system shall be designed to reasonably ensure that:

(a) Assets relating to the operation of electronic gaming devices are safeguarded;

(b) Financial records relating to the operation of electronic gaming devices are accurate and reliable;

(c) Transactions relating to the operation of electronic gaming devices are performed only in accordance with management's general or specific authorization;

(d) Transactions relating to the operation of electronic gaming devices are recorded adequately to permit proper reporting of gaming income and of fees and taxes, and to maintain accountability for assets;

(e) Access to assets relating to the operation of electronic gaming devices is permitted only in accordance with management's specific authorization;

(f) Recorded accountability for assets relating to the operation of electronic gaming devices is compared with actual assets at reasonable intervals and appropriate action is taken with respect to any discrepancies; and

(g) Functions, duties, and responsibilities relating to the operation of electronic gaming devices are appropriately segregated and performed in accordance with sound practices by competent, qualified personnel.

(5) An audit of the books and records of each electronic gaming device operator relating to the operation of electronic gaming devices shall be performed by an independent, certified public accountant who meets the qualifications to do business within the Commonwealth of Kentucky at the close of each electronic gaming device operator's fiscal year. The audit shall be conducted in accordance with generally accepted accounting procedures, shall be paid for by the electronic gaming device operator, and shall be completed within ninety (90) days after the close of the fiscal year. A copy of the audit report shall be submitted by the electronic gaming device operator to the Gaming Commission and the Racing Commission within ten (10) days after receipt of the report from the accountant.

SECTION 37. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) A person shall not be employed as an electronic gaming device employee unless the person holds a valid license issued by the Gaming Commission in accordance with this chapter and administrative regulations adopted by the Gaming Commission. An electronic gaming device employee shall also be licensed by the Racing Commission. The Gaming Commission and the Racing Commission shall be authorized to issue temporary licenses in connection with efforts to facilitate the initiation of electronic gaming device games at the earliest feasible time as provided in Section 31 of this Act. The Gaming Commission and the Racing Commission shall cooperate with a view to creating a single licensing procedure for electronic gaming device employees. If this single license is adopted, the Racing Commission shall issue the license and shall have sole control and authority over the license as well as the ability to establish a fee for the single license.

(2) An electronic gaming device manufacturer shall not sell, lease, or otherwise transfer any electronic gaming device in this state unless the manufacturer holds a valid license issued by the Gaming Commission in accordance with this chapter and regulations adopted by the Gaming Commission.

(3) The Gaming Commission may require the licensing of any person who furnishes services or property to an electronic gaming device operator under any arrangement under which the person receives payments based on earnings, profits, or receipts from electronic gaming device games. The Gaming Commission may require any such person to comply with the requirements of this chapter and with the administrative regulations of the Gaming Commission. If the Gaming Commission determines that any such person is unsuitable, it may require the arrangement to be terminated without liability on the part of an electronic gaming device operator, its agents, or employees.

(4) All electronic gaming device operators and electronic gaming device manufacturers shall:

(a) Promptly report to the Gaming Commission any facts or circumstances related to the operation of electronic gaming devices which constitute a violation of state or federal law;

(b) Conduct all electronic gaming device activities and operations in a manner that does not pose a threat to the public health, safety, or welfare of the citizens of this state, and which does not adversely affect the security and integrity of electronic gaming device games;

(c) Hold the Gaming Commission, the Racing Commission and this state harmless from and defend and pay for the defense of any and all claims which may be asserted against such electronic gaming device operator, electronic gaming device manufacturer, the Gaming Commission, the Racing Commission, the state or the employees thereof, arising from the licensee's participation in the electronic gaming device gaming activities authorized by this chapter;

(d) Assist the Gaming Commission in maximizing electronic gaming device revenues; and

(e) Maintain all records required by the Gaming Commission and the Racing Commission.

(5) All electronic gaming device manufacturers shall:

(a) Manufacture electronic gaming devices and associated equipment for placement in this state in accordance with the requirements specified in administrative regulations adopted by the Gaming Commission;

(b) Manufacture electronic gaming devices and associated equipment to ensure timely delivery to electronic gaming device operators;

(c) Maintain and provide an inventory of spare parts to assure the timely repair and continuous operation of electronic gaming devices placed and intended for placement in this state;

(d) Provide to electronic gaming device operators and service technicians technical assistance and training in the service and repair of electronic gaming devices and associated equipment to ensure the continued, authorized operation of electronic gaming devices; and

(e) Obtain certification of compliance under the applicable regulations of the Federal Communications Commission for all electronic gaming devices placed in this state.

(6) All service technicians shall:

(a) Maintain all skills necessary for the timely repair and service of electronic gaming devices and associated

equipment to ensure the continued, approved operation of electronic gaming devices;

(b) Attend all meetings, seminars, and training sessions mandated by the Gaming Commission involving the repair and maintenance of electronic gaming devices and associated equipment; and

(c) Promptly notify the Gaming Commission of any electronic or mechanical electronic gaming device malfunctions.

(7) All validation managers shall:

(a) Maintain all skills necessary for the accurate validation and handling of coins at processing stations;

(b) Attend all meetings, seminars, and training sessions mandated by the Gaming Commission involving the validation and redemption of electronic gaming device winnings; and

(c) Supervise the handling of coins at processing stations.

(8) All floor attendants shall:

(a) Provide change and assistance to persons playing electronic gaming device games on the premises of a licensed electronic gaming device operator; and

(b) Open electronic gaming device access doors to clear bill jams.

SECTION 38. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) No person younger than twenty-one (21) years of age shall:

(a) Play, be allowed to play, place wagers, or collect winnings, whether personally or through an agent, from any electronic gaming devices authorized under this chapter; or

(b) Be employed as an electronic gaming device employee; or

(c) Loiter in areas where electronic gaming devices are located.

(2) Electronic gaming device operators shall take affirmative steps to ensure that minors will not have access to electronic gaming devices.

SECTION 39. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

KRS 12.100 or any other provision of law to the contrary notwithstanding, in the event of a disagreement between the Gaming Commission and the Racing Commission with regard to their respective duties or responsibilities in carrying out the purposes of this chapter, the disagreement shall be resolved by the secretary of the Governor's Executive Cabinet in a manner consistent with the provisions of this chapter.

SECTION 40. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly, in accordance with and in compliance with the provisions of Section 2 of the Act of Congress codified at 15 U.S.C. secs. 1171 to 1177, hereby declares and proclaims that Section 2 of that Act of Congress shall not apply to any gambling device in this state where the transportation of this device is specifically authorized by and done in compliance with the provisions of this chapter, any other applicable statute of this state, and any regulations adopted pursuant thereto, and that any such gambling device transported in compliance with state law and regulations shall be exempt from the provisions of that Act of Congress.

(2) All shipments into this state of electronic gaming devices, the registering, recording, and labeling of which has been duly made by the manufacturer or dealer in accordance with Sections 3 and 4 of that Act of Congress, codified at 15 U.S.C. secs. 1173 to 1174, shall be deemed legal shipments into this state.

SECTION 41. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Any person who influences or attempts to influence the winning of a prize through the use of coercion, fraud, deception, or tampering with an electronic gaming device or any electronic gaming device associated equipment shall be guilty of a Class B felony.

(2) Any person who knowingly provides false or intentionally misleading information to the Gaming Commission or the Racing Commission in connection with an application for any license relating to electronic gaming devices pursuant to this chapter shall be fined not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), and shall be guilty of a Class D felony.

(3) Unless the Gaming Commission shall have promulgated administrative regulations governing its procurements under this chapter, the provisions of KRS 45A.990(1) to (8) shall be deemed to apply to procurement activities conducted under this chapter which are governed by KRS Chapter 45A. If the Gaming Commission has promulgated administrative regulations governing its procurements, any person who willfully violates the administrative regulations shall be guilty of a Class A misdemeanor.

(4) Any person who knowingly allows a person under twenty-one (21) years of age to enter an age-restricted area containing electronic gaming devices shall be guilty of a violation for the first offense and for each subsequent offense shall be guilty of a Class B misdemeanor. In any prosecution for a violation of the provisions of this section, it shall be a defense that the person charged with the violation had a reasonable and good faith basis to believe that the person was at least twenty-one (21) years of age.

(5) Any person who, while an electronic gaming device game is being played at a licensed electronic gaming device operator, uses, or assists another in the use of, an electronic, electrical, or mechanical device which is designed, constructed, or programmed specifically for use in obtaining an advantage at playing any electronic gaming device game shall be guilty of a Class B felony.

(6) Any licensed electronic gaming device operator who knowingly places an electronic gaming device into play without authority of the Gaming Commission to do so shall be guilty of a violation for the first offense and for each subsequent offense shall be guilty of a Class B misdemeanor.

(7) Any person who operates, carries on, or exposes for play an electronic gaming device after the person's license as an electronic gaming device operator has expired and prior to the actual renewal thereof shall be guilty of a Class B misdemeanor.

(8) Any licensed electronic gaming device operator who possesses any electronic gaming device which the licensee knows has been manufactured, distributed, sold, tampered with, or serviced in violation of the provisions of this chapter or administrative regulations promulgated under this chapter shall be guilty of a Class B misdemeanor.

(9) If an agent of the Gaming Commission, an electronic gaming device operator or an electronic gaming device operations manager, or any employee or agent thereof, suspects a person of violating any provisions of this chapter or any other criminal laws of the state at a facility at which electronic gaming devices are operated, the person suspected of these violations may be detained at the facility by any such agent or employee until law enforcement officials arrive and take custody of the person, or may be ejected from the facility by any such agent or employee. Neither the Gaming Commission, the Commonwealth of Kentucky, an electronic gaming device operator or an electronic gaming device operations manager, or their agents or employees, shall be liable for any damages for any such detention or ejection or activity in connection therewith regardless of whether the person so detained or ejected, in fact, committed an offense.

Section 42. KRS 137.190 is amended to read as follows:

The~~[license tax imposed by KRS 137.170, the]~~ admission tax imposed by KRS 138.480, ~~[and]~~the state taxes and contributions imposed by KRS 138.510 to 138.550 and KRS 230.380 on pari-mutuel systems of betting***, and the amounts paid to the Kentucky Gaming Commission under Section 35 of this Act,*** shall be in lieu of all other license, excise, special, or franchise taxes to the state or any county, city, or other political subdivision. No county, city, or other political subdivision may levy any license, income, excise, special, or franchise tax on any such person or corporation engaged ***by an electronic gaming device operator*** in the business of conducting a race track at which races are conducted for stakes, purses, or prizes, or operating as a receiving track or simulcast facility, or on the operation or maintenance of any pari-mutuel machine***, electronic gaming device,*** or similar device, or on the money or amount of money handled by or through any pari-mutuel machine***, electronic gaming device,*** or similar device or on the sale of any merchandise during the conducting of races thereon by any such person***, Gaming Commission,*** or corporation.

Section 43. KRS 138.480 is amended to read as follows:

Except for the conduct of harness racing at a county fair, each person entering the grounds or enclosure of any race track at which a live race meeting is being conducted under the jurisdiction of the Kentucky Racing Commission, for the purpose of attending the races or for any other purpose connected therewith, shall pay a tax of fifteen cents ($0.15) to the state, except as otherwise provided in this section. If tickets good for more than one (1) day are issued, the sum of fifteen cents ($0.15) shall be paid by each person using such ticket on each day that it is used. No admission tax shall be collected from any of the employees of the race track, or any of the owners or trainers of horses, or jockeys, or their employees. The admission tax provided for in this section shall be collected by the race track from each person on entering the race track or enclosure on a paid~~[or free]~~ admission***, but shall not be required to be collected from or paid with respect to any person on entering the race track or enclosure on a free admission***. The race track shall account to and pay to the state the money so collected.

Section 44. KRS 230.260 is amended to read as follows:

The commission, in the interest of breeding or the improvement of breeds of horses, shall have all powers necessary and proper to carry out fully and effectually the provisions of this chapter including, but without limitation, the following:

(1) The commission is vested with jurisdiction and supervision over all horse race meetings in this Commonwealth and over all associations and all persons on association grounds and may eject or exclude therefrom or any part thereof, any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the commission, reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of horse racing or racing at horse race meetings; provided, however, no persons shall be excluded or ejected from association grounds solely on the ground of race, color, creed, national origin, ancestry, or sex;

(2) The commission, its representatives and employees, may visit, investigate and have free access to the office, track, facilities, or other places of business of any licensee for the purpose of satisfying itself that this chapter and its administrative regulations are strictly complied with;

(3) The commission shall have full authority to prescribe necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted in this state and to fix and regulate the minimum amount of purses, stakes, or awards to be offered for the conduct of any horse race meeting;

(4) Applications for licenses shall be made in the form, in the manner, and contain information as the commission may, by

administrative regulation, require. Fees for all licenses issued under KRS 230.310 ***or KRS Chapter 230A*** shall be prescribed by and paid to the commission;

(5) The commission shall establish by administrative regulation minimum fees for jockeys to be effective in the absence of a contract between an employing owner or trainer and a jockey. The minimum fees shall be no less than those of July 1, 1985;

(6) Any of the foregoing administrative regulations, to the extent they are promulgated, shall be promulgated, amended, or repealed in conformity with KRS Chapter 13A;

(7) The commission may issue subpoenas for the attendance of witnesses before it and administer oaths to witnesses whenever, in the judgment of the commission, it is necessary to do so for the effectual discharge of its duties;

(8) The commission shall have authority to compel any racing association licensed under this chapter to file with the commission at the end of its fiscal year, a balance sheet, showing assets and liabilities, and an earnings statement, together with a list of its stockholders or other persons holding a beneficial interest in the association;

(9) The commission shall promulgate administrative regulations establishing safety standards for jockeys, which shall include the use of rib protection equipment. Rib protection equipment shall not be included in a jockey's weight***;***

(10) The commission shall have all powers necessary and proper to carry out fully and effectively its responsibilities relating to electronic gaming device games as described in KRS Chapter 230A, including the application and licensing of electronic gaming device employees, overseeing proceeds from electronic gaming device games as described in Section 35 of this Act for the promotion and betterment of the Kentucky horse industry, and promulgating such administrative regulations governing the integration of electronic gaming device games at racetracks as it deems necessary for the protection of the public.

Section 45. KRS 230.310 is amended to read as follows:

Every person not required to be licensed under KRS 230.300 who desires to participate in horse racing in the Commonwealth as a horse owner, trainer, jockey, apprentice jockey, agent, stable employee, racing official, association employee, or employee of a person or concern contracting with the association to provide a service or commodity and which requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, ***or electronic gaming device employee as defined in subsection (6) of Section 2 of this Act,*** shall first apply to the commission for a license to participate in the activity on association grounds during a race meeting. No person required to be licensed by this section may participate in any activity required to be licensed on association grounds during a race meeting without a valid license therefor. An applicant for a license shall submit to the commission fingerprints as may be required and other information necessary and reasonable for processing a license application. The commission is authorized to exchange fingerprint data with the Kentucky State Police and the Federal Bureau of Investigation in order to conduct a criminal history background check of an applicant. The commission may issue a license if it finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license, are consistent with the best interest of racing and the maintenance of the honesty, integrity, and high quality thereof. A license shall be issued for the calendar year in which it is issued and may be renewed by the commission. The license shall be valid at all horse race meetings in the Commonwealth during the period for which it is issued unless suspended or revoked under the administrative regulations promulgated by the commission under this chapter. With respect to horse owners and trainers, the commission may promulgate administrative regulations to facilitate and promote uniform, reciprocal licensing with other states.

Section 46. KRS 230.377 is amended to read as follows:

(1) Other provisions of the Kentucky Revised Statutes notwithstanding, a track may apply to the commission for simulcasting and intertrack wagering dates. Applications shall be submitted in accordance with KRS 230.300. The commission shall not approve the establishment or relocation of a receiving track within a radius of seventy-five (75) miles of a race track duly licensed as of July 15, 1992, without the prior written consent of the licensed track within whose seventy-five (75) mile radius the new receiving track would be located.

(2) On or before November 1 of each year, the commission shall meet and award intertrack wagering dates to all tracks for the entire succeeding calendar year. In a geographic area containing more than one (1) track within a fifty (50) mile radius of another track, intertrack wagering shall be limited to simulcasting and wagering on racing of the same breed of horse as the receiving track was licensed to race on or before July 15, 1998.

(3) The commission shall approve no more than nine (9) tracks for participation in horse racing, intertrack wagering, and simulcasting. Any approval by the commission of a change in location of these tracks shall be subject to the local-approval process contained in KRS 230.380.

(4) A track may by administrative regulation be required to simulcast its races to one (1) or more receiving tracks approved for simulcasting and intertrack wagering, as a prerequisite for the issuance of a license pursuant to KRS 230.300, provided that:

(a) Each track shall be permitted to exempt one (1) day of racing from simulcasting to both receiving tracks and simulcast facilities, at its discretion;

(b) Tracks in a county containing a city of the first class ***or a consolidated local government*** and tracks in an urban-county government shall not be required to simulcast to each other or to any other facility in those counties. This provision shall not be construed as requiring tracks within the same county to simulcast to each other; and

(c) In the absence of a contract between a host track and a receiving track, the commission shall be split as provided for in KRS 230.378(3).

(5) A track may receive simulcasts and conduct interstate wagering thereon subject to the following limitations which shall be in addition to the limitations set forth in KRS 230.3771:

(a) A track licensed to conduct thoroughbred racing may receive simulcasts and conduct interstate wagering on all thoroughbred horse races designated as graded stakes races by the Graded Stakes Committee of the Thoroughbred Owners and Breeders Association, Inc., without further consents or approvals.

(b) A track licensed to conduct harness racing may receive simulcasts and conduct interstate wagering on all harness horse races (both final and elimination) having a final purse in excess of seventy-five thousand dollars ($75,000) without further consents or approvals.

(c) A track which applies to the commission to receive an interstate race of a different breed than the breed for which it is licensed by the commission shall receive any simulcast of an interstate race through the intertrack wagering system upon approval by the commission. ***Notwithstanding the foregoing, a track licensed to conduct horse racing may receive simulcasts and conduct interstate wagering on quarter horse races, subject to the limitations of Section 47 of this Act.***

(d) A track may receive simulcasts of special event races conducted in other states or foreign countries which are determined by the commission to be of sufficient national or international significance or interest to warrant interstate wagering and if the simulcast of these races has been approved by the Kentucky Thoroughbred Owners and Breeders Association, Inc., the Kentucky Division of the Horseman's Benevolent and Protective Association, for thoroughbred races, and the Kentucky Harness Horsemen's Association for harness racing, and any track conducting live horse races of the same breed at the same time as the simulcast race.

(e) A track may also receive simulcasts and conduct interstate wagering on thoroughbred horse races other than those described in paragraphs (a) and (d) of this section if the simulcast of these races has been approved by the Kentucky Thoroughbred Owners and Breeders Association, Inc., and the Kentucky Horsemen's Benevolent and Protective Association, for thoroughbred races, and the Kentucky Harness Horsemen's Association, or its successor, for harness racing.

(f) The consent required by paragraph (e) of this subsection or by subsections (1)(g) and (2)(g) of KRS 230.3771 shall not be withheld:

1. For any reason not specifically related to financial harm to live horse racing; or

2. As a condition to the granting of any contractual or other concession not specifically related to the effects of interstate simulcasting on live horse racing in this Commonwealth, taken as a whole.

(g) A host track located in this state may receive simulcasting of not more than two (2) full cards of racing from another state, if both tracks race horses of the same breed and if:

1. The race date was previously granted by the Kentucky Racing Commission to conduct live racing at the track located in this state;

2. Live racing was canceled due to weather conditions; and

3. The consent required by subsection (5)(d) of this section is obtained.

(h) The in-state track receiving the simulcast specified in paragraph (g) of this subsection shall offer that simulcast to all participating tracks and simulcast facilities in the intertrack wagering system.

(i) All interstate simulcasting shall be conducted in accordance with applicable federal laws.

(6) The commission may promulgate necessary and reasonable administrative regulations for the purpose of administering the conduct of intertrack or interstate wagering and regulating the conditions under which wagering shall be held and conducted. Administrative regulations shall provide for the prevention of practices detrimental to the public interest and to impose penalties for violations. All administrative regulations shall be in conformity with the provisions of KRS Chapter 13A, KRS 138.510, and this chapter.

(7) Subsections (2) and (3) of this section shall apply only to intertrack wagering dates awarded for calendar year 1993 and thereafter, and any unresolved intertrack wagering dates for calendar year 1992 shall be awarded pursuant to applicable provisions of law in effect immediately prior to March 30, 1992.

Section 47. KRS 230.3771 is amended to read as follows:

(1) A thoroughbred track licensed to conduct thoroughbred racing may receive interstate simulcasts of thoroughbred horse races and conduct interstate wagering thereon, subject to the following limitations:

(a) A thoroughbred receiving track may receive interstate simulcasts of thoroughbred races and conduct interstate wagering thereon at any time of day and during any live thoroughbred horse race meet conducted in the Commonwealth of Kentucky so long as the thoroughbred receiving track conducting interstate wagering remits to the thoroughbred host track conducting a live meet, from the first awarded day of its live meet through the last awarded day of the same live meet, the amounts provided in paragraph (j) of this subsection.

(b) A thoroughbred host track which receives interstate simulcasts and conducts interstate wagering thereon during the period of time from the first awarded day of its live meet through the last awarded day of its live meet shall offer the simulcasts to all thoroughbred receiving tracks, all harness tracks not subject to the provisions of KRS 230.377(2), and all simulcast facilities through the intertrack wagering system.

(c) Except as otherwise prohibited by law, a receiving track shall conduct intertrack wagering on all live races of all thoroughbred host tracks on any day on which it receives an interstate simulcast for the purpose of conducting interstate wagering.

(d) No host track shall require that any receiving track or simulcast facility receive the interstate simulcast.

(e) If more than one (1) thoroughbred track conducts live racing at the same time on the same day, no track or simulcast facility may receive an interstate simulcast of thoroughbred races unless all thoroughbred tracks conducting live racing at the same time of day agree upon all interstate simulcasts to be received and the division of the thoroughbred host track's commission. If more than one (1) thoroughbred track conducts live racing at different times on the same day, the thoroughbred host track with the highest average daily handle, based on the preceding year, shall be the host track for purposes of splitting the commissions earned on interstate wagering at receiving tracks within the Commonwealth. For purposes of this subsection, average daily handle includes live handle, intertrack wagering handle, and simulcast facility handle. Also for purposes of this subsection, the time of day during which a host track conducts live racing commences with its first published post time and concludes ten (10) minutes after the published post time of its last race of the day, regardless of actual post times.

(f) Each thoroughbred track which desires to conduct interstate wagering pursuant to the provisions of this subsection shall during each year make application to the commission for no less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 and one hundred percent (100%) of the number of races scheduled to be run by the track in 1993.

(g) Notwithstanding subsection (f) of this subsection, any thoroughbred track may apply for less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 or one hundred percent (100%) of the number of races scheduled to be run by the track in 1993, if written approval is obtained from the Kentucky Horsemen's Benevolent and Protective Association and the Kentucky Thoroughbred Owners and Breeders Association, Inc.

(h) A separate accounting on all interstate simulcasting shall be submitted to the commission. The accounting shall be submitted in the same format and at the same time that the report for intertrack wagering is submitted.

(i) If the only simulcast or simulcasts a track participating as a host track makes available for interstate wagering through this state's intertrack wagering system on any race day are thoroughbred horse races designated as graded stakes races by the Graded Stakes Committee of the Thoroughbred Owners and Breeders Association, Inc., then the commission of the receiving track on these interstate wagers shall be split as prescribed by KRS 230.378(3); otherwise, the commission of the receiving track shall be split as prescribed by paragraph (j) of this subsection. Interstate simulcasts received by a thoroughbred host track under the conditions set forth in this paragraph shall not be subject to the conditions set forth in paragraphs (b), (c), (e), and (f) of this subsection.

(j) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:

1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;
2. Twenty-five percent (25%) to the thoroughbred host track designated by paragraphs (a) and (e) of this subsection. However, if the race does not occur between the first awarded day of a live meet and the last awarded day of the same live meet, an additional twenty-five percent (25%) shall be retained by the receiving track where the interstate wagering occurs;
3. Twenty-five percent (25%) to the purse program of the receiving track where the interstate wagering occurs; and
4. Twenty-five percent (25%) to the purse program of the thoroughbred host track designated by paragraphs (a) and (e) of this subsection. However, if the race does not occur between the first awarded day of a live meet and the last awarded day of the same live meet, then an additional twenty-five percent (25%) shall be paid to the purse program of the receiving track where the interstate wagering occurs.

(k) A simulcast facility's commission on interstate wagering on thoroughbred racing, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as provided in KRS 230.380(9).

(2) A harness track licensed to conduct harness racing may receive interstate simulcasts of harness horse races and conduct interstate wagering thereon subject to the following limitations:

(a) A harness receiving track may receive interstate simulcasts of harness races and conduct interstate wagering thereon at any time of day and during the course of any live harness horse race meet conducted in the Commonwealth of Kentucky so long as the harness receiving track conducting interstate wagering remits to the harness host track conducting a live meet, from the first awarded day of its live meet through the last awarded day of the same live meet, the amounts provided in paragraph (j) of this subsection.

(b) A harness host track which receives an interstate simulcast and conducts interstate wagering thereon during its live race meet shall offer the simulcasts to all thoroughbred receiving tracks not subject to the provisions of KRS 230.377(2), all harness tracks, and all simulcast facilities through the intertrack wagering system.

(c) Except as otherwise prohibited by law, a harness receiving track or a simulcast facility shall conduct intertrack wagering on all live races of a harness host track on any day it receives an interstate simulcast from a harness host track.

(d) No host track shall require that any receiving track or simulcast facility receive the interstate simulcast.

(e) If more than one (1) harness track conducts live racing at the same time on the same day, no track or simulcast facility may receive an interstate simulcast on harness races unless all harness tracks conducting live racing at that time of day agree upon the interstate simulcast to be received and the division of the harness host track's commission. If more than one (1) harness track conducts live racing at different times on the same day, the harness host track with the highest average daily handle, based on the preceding year, shall be the host track for purposes of splitting the commissions earned on interstate wagering at receiving tracks within the Commonwealth. For purposes of this subsection, average daily handle includes live handle, intertrack wagering handle, and simulcast facility handle. Also for purposes of this subsection, the time of day during which a host track conducts live racing commences with its first published post time and conclude ten (10) minutes after the published post time of its last race of the day, regardless of actual post times.

(f) Each harness track which desires to conduct interstate wagering pursuant to the provisions of this subsection shall during each year make application to the commission for no less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 and one hundred percent (100%) of the number of races scheduled to be run by the track in 1993.

(g) Notwithstanding subsection (f) of this subsection, any harness track may apply for less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 or one hundred percent (100%) of the number of races scheduled to be run by the track in 1993, if written approval is obtained from the Kentucky Harness Horsemen's Association, or its successor.

(h) A separate accounting on all interstate simulcasting shall be submitted to the commission. This accounting shall be submitted in the same format and at the same time that the report for intertrack wagering is submitted.

(i) If the only simulcast or simulcasts a track participating as a harness host track makes available for interstate wagering through this state's intertrack wagering system on any race day are harness horse races (both final and elimination) having a final purse in excess of seventy-five thousand dollars ($75,000), then the commission of the receiving track on these interstate wagers shall be split as prescribed by KRS 230.378(3); otherwise, the commission of the receiving track shall be split as prescribed by paragraph (j) of this subsection. Interstate simulcasts received by a harness host track under the conditions set forth in this paragraph shall not be subject to the conditions set forth in paragraphs (b), (c), (e), and (f) of this subsection.

(j) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:

1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;
2. Twenty-five percent (25%) to the harness host track designated by paragraphs (a) and (e) of this subsection. However, if no live meet is occurring, an additional twenty-five percent (25%) shall be retained by the receiving track where the interstate wagering occurs;
3. Twenty-five percent (25%) to the purse program of the receiving track where the interstate wagering occurs; and
4. Twenty-five percent (25%) to the purse program of the harness host track designated by paragraphs (a) and (e) of this subsection. However, if no live meet is occurring, an additional twenty-five percent (25%) shall be paid to the purse program of the receiving track where the interstate wagering occurs.

(k) A simulcast facility's commission on interstate wagering on harness races, after deduction of applicable taxes and any amount required to be paid by contract to the track from which the interstate simulcast originated, shall be split as provided in KRS 230.380(9).

(3) A harness track may only receive interstate simulcasts of thoroughbred horse races and conduct interstate wagering thereon as provided in subsection (1)(b) of this section. A thoroughbred track may only receive interstate simulcasts of harness horse races and conduct interstate wagering thereon as provided in subsection (2)(b) of this section. A simulcast facility may only receive interstate simulcasts of thoroughbred and harness horse races and conduct interstate wagering thereon as provided in subsections (1)(b) and (2)(b) of this section.

(4) ***(a) A track licensed to conduct horse racing may receive interstate simulcasts of quarter horse races and conduct interstate wagering thereon, subject to the limitations stated in paragraph (b) of this subsection.***

(b) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:

1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;

2. Twenty-five percent (25%) to the host track; and

3. Fifty percent (50%) to the quarter horse purse program within this state, to be allocated by the American Quarter Horse Association or its successor to supplement purses for quarter horse racing in this state.

(5) Other provisions of the Kentucky Revised Statutes notwithstanding, any track in a geographic area that contains more than one (1) track within a fifty (50) mile radius of any other track may only receive interstate simulcasts on racing of the same breed of horse as the track was licensed to race on or before July 15, 1998.

Section 48. KRS 230.378 is amended to read as follows:

(1) A receiving track may accept wagers only at the track where it is licensed to conduct its race meeting or conduct intertrack wagering. A receiving track may accept wagers through a telephone account wagering system. Wagers at a receiving track, simulcast facility, or on telephone account wagering shall form a common pool with wagers at a host track. This common pool requirement shall not apply to wagers made in connection with interstate simulcasting pursuant to KRS 230.3771; however, common pools shall be encouraged.

(2) Except as provided in KRS 230.3771(2), the commission of a receiving track, simulcast facility, or on telephone account wagering shall be the same as the commission of the host track as determined in KRS 230.3615 or 230.750.

(3) In the absence of a valid contract with a horsemen's organization, the commission of a receiving track, after deduction of applicable taxes and other applicable deductions, shall be split as follows:

(a) With respect to races other than quarter horse races, twenty-two percent (22%) to the host track, twenty-two percent (22%) to the purse program at the host track, twenty-two percent (22%) to the receiving track and twenty-two percent (22%) to the purse program at the receiving track. Twelve percent (12%) of the commission shall be allocated evenly between the host track and the receiving track to cover the cost of simulcasting, unless otherwise agreed to by contract***; and***

(b) With respect to quarter horse races, twenty-five percent (25%) to the host track, twenty-five percent (25%) to the receiving track, and fifty percent (50%) to the quarter horse purse program in this state.

(4) The deduction for the backside improvement fund, as provided for in KRS 230.3615(4) shall not apply to the commission or pari-mutuel tax of a receiving track or telephone account wagering.

(5) A receiving track shall be exempt from the admissions tax levied in KRS 138.480 and from any license fee imposed by statute or regulation by the commission.

Section 49. KRS 243.500 is amended to read as follows:

Any license issued under KRS 243.020 to 243.670 may be revoked or suspended for the following causes:

(1) Conviction of the licensee or his agent or employee for selling any illegal beverages on the licensed premises.

(2) Making any false, material statements in an application for a license or supplemental license.

(3) Violation of the provisions of KRS 243.670.

(4) Conviction of the licensee or any of his clerks, servants, agents, or employees of:

(a) Two (2) violations of the terms and provisions of KRS Chapter 241, 243, or 244 or any act regulating the manufacture, sale, and transportation of alcoholic beverages within two (2) consecutive years;

(b) Two (2) misdemeanors directly or indirectly attributable to the use of intoxicating liquors within two (2) consecutive years; or

(c) Any felony.

(5) Failure or default of a licensee to pay an excise tax or any part of the tax or any penalties imposed by or under the provisions of any statutes, ordinances, or Acts of Congress relative to taxation, or for a violation of any administrative regulations promulgated by the Revenue Cabinet made in pursuance thereof.

(6) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600, and 243.610, or granted under any Act of Congress relative to the regulation of the manufacture, sale, and transportation of alcoholic beverages. Any license issued under KRS 243.020 to 243.670 shall be revoked or suspended if the licensee sells the alcoholic beverages at a price in excess of the price set by federal or state regulations.

(7) Setting up, conducting, operating, or keeping, on the licensed premises, any gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility. This section shall not apply to contests in which eligibility to participate is determined by chance and the ultimate winner is determined by skill and the licensee has no direct interest, or to the sale of lottery tickets sold under the provisions of KRS Chapter 154A***, or to the operation of electronic gaming device games by***

an electronic gaming device operator licensed and regulated under the provisions of KRS Chapter 230A.

(8) Conviction of the licensee, his agents, servants, or employees for:

(a) The sale or use upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances;

(b) Knowingly permitting the sale or use by patrons upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances; or

(c) Knowingly receiving stolen property upon the licensed premises.

Section 50. KRS 243.505 is amended to read as follows:

The operation of a pari-mutuel system for betting, where authorized by law, ***or the operation of electronic gaming device games by an electronic gaming device operator licensed and regulated under the provisions of KRS Chapter 230A,*** or the conduct of charitable gaming by a charitable organization licensed and regulated under the provision of KRS Chapter 238, shall not constitute grounds for the revocation or suspension of any license issued under KRS Chapter 243.

Section 51. KRS 525.090 is amended to read as follows:

(1) A person is guilty of loitering when he:

(a) Loiters or remains in a public place for the purpose of gambling with cards, dice or other gambling paraphernalia, except that the provisions of this section shall not apply if the person is participating in charitable gaming defined by KRS 238.505***, or is playing an electronic gaming device game on the premises of an electronic gaming device operator licensed and regulated under the provisions of KRS Chapter 230A***; or

(b) Loiters or remains in a public place for the purpose of unlawfully using a controlled substance; or

(c) Loiters or remains in or about a school, college or university building or grounds, not having any reason or relationship involving custody of or responsibility for a pupil or student or any other specific legitimate reason for being there and not having written permission from anyone authorized to grant the same; or

(d) Loiters or remains in any transportation facility, unless specifically authorized to do so, for the purpose of soliciting or engaging in any business, trade or commercial transactions involving the sale of merchandise or services.

(2) Loitering is a violation.

Section 52. KRS 528.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Advancing gambling activity" -- A person "advances gambling activity" when, acting other than as a player, he engages in conduct that materially aids any form of gambling activity. The conduct shall include, but is not limited to, conduct directed toward the establishment of the particular game, contest, scheme, device, or activity involved; toward the acquisition or maintenance of premises, paraphernalia, equipment, or apparatus therefor; toward the solicitation or inducement of persons to participate therein; toward the actual conduct of the playing phases thereof; toward the arrangement of any of its financial or recording phases or toward any other phase of its operation. A person who gambles at a social game of chance on equal terms with other participants does not otherwise advance gambling activity by performing acts, without remuneration or fee, directed toward the arrangement or facilitation of the game as inviting persons to play, permitting the use of premises therefor and supplying equipment used therein.

(2) "Bookmaking" means advancing gambling activity by unlawfully accepting bets upon the outcome of future contingent events from members of the public as a business.

(3) (a) "Gambling" means staking or risking something of value upon the outcome of a contest, game, gaming scheme, or gaming device which is based upon an element of chance, in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome. A contest or game in which eligibility to participate is determined by chance and the ultimate winner is determined by skill shall not be considered to be gambling.

(b) Gambling shall not mean charitable gaming which is licensed and regulated under the provisions of KRS Chapter 238***, or the sale of lottery tickets by a lottery retailer regulated under the provisions of KRS Chapter 154A, or the operation of electronic gaming device games by an electronic gaming device operator licensed and regulated under the provisions of KRS Chapter 230A***.

(4) "Gambling device" means:

(a) Any so-called slot machine or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and which when operated may deliver, as a result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

(b) Any other machine or any mechanical or other device, including but not limited to roulette wheels, gambling tables and similar devices, designed and manufactured primarily for use in connection with gambling and which when operated may deliver, as the result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property;

(c) But, the following shall not be considered gambling devices within this definition:

1. Devices dispensing or selling combination or French pools on licensed, regular racetracks during races on said tracks.

2. Electro-mechanical pinball machines specially designed, constructed, set up, and kept to be played for amusement only. Any pinball machine shall be made to receive and react only to the deposit of coins during the course of a game. The ultimate and only award given directly or indirectly to any player for the attainment of a winning score or combination on any pinball machine shall be the right to play one (1) or more additional games immediately on the same device at no further cost. The maximum number of free games that can be won, registered, or accumulated at one (1) time in operation of any pinball machine shall not exceed thirty (30) free games. Any pinball machine shall be made to discharge accumulated free games only by reactivating the playing mechanism once for each game released. Any pinball machine shall be made and kept with no meter or system to preserve a record of free games played, awarded, or discharged. Nonetheless, a pinball machine shall be a gambling device if a person gives or promises to give money, tokens, merchandise, premiums, or property of any kind for scores, combinations, or free games obtained in playing the pinball machine in which the person has an interest as owner, operator, keeper, or otherwise.

3. Devices used in the conduct of charitable gaming.

4. Electronic gaming devices operated by an electronic gaming device operator licensed and regulated under the provisions of KRS Chapter 230A.

(5) "Lottery and gift enterprise" means:

(a) A gambling scheme in which:

1. The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other media, one (1) or more of which are to be designated the winning ones; and

2. The ultimate winner is to be determined by a drawing or by some other method based upon the element of chance; and

3. The holders of the winning chances are to receive something of value.

(b) A gift enterprise or referral sales plan which meets the elements of a lottery listed in paragraph (a) of this subsection is to be considered a lottery under this chapter.

(6) "Mutuel" or "the numbers games" means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome or outcomes of a future contingent event or events otherwise unrelated to the particular scheme.

(7) "Player" means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct, or operation of the particular gambling activity. A person who engages in "bookmaking" as defined in subsection (2) of this section is not a "player." The status of a "player" shall be a defense to any prosecution under this chapter.

(8) "Profiting from gambling activity" -- A person "profits from gambling activity" when, other than as a player, he accepts or receives or agrees to accept or receive money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity.

(9) "Something of value" means any money or property, any token, object, or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment, or a privilege of playing at a game or scheme without charge.

(10) "Charitable gaming" means games of chance conducted by charitable organizations licensed and regulated under the provisions of KRS Chapter 238.

(11) "Electronic gaming device games" means games played on electronic gaming devices on the premises of an electronic gaming device operator licensed and regulated in accordance with KRS Chapter 230A.

Section 53. KRS 528.100 is amended to read as follows:

Any gambling device or gambling record possessed or used in violation of this chapter is forfeited to the state, and shall be disposed of in accordance with KRS 500.090, except that the provisions of this section shall not apply to charitable gaming activity as defined by KRS 528.010(10)***, or to electronic gaming device games as defined in subsection (11) of Section 52 of this Act***.

Section 54. KRS 138.510 is amended to read as follows:

(1) Except for the conduct of harness racing at a county fair, an excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky Racing Commission. For each track with a daily average handle of one

million two hundred thousand dollars ($1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered during the fiscal year. A fiscal year as used in this subsection and subsection (3) of this section shall begin at 12:01 a.m. July 1 and end at 12 midnight June 30. For each track with a daily average handle under one million two hundred thousand dollars ($1,200,000) the tax shall be an amount equal to one and one-half percent (1.5%) of all money wagered during the fiscal year. However, effective January 1, 2001, if a host track located in this state is the location for the conduct of a one (1) day international horse racing event that distributes in excess of a total of ten million dollars ($10,000,000) in purses, an excise tax shall not be imposed on pari-mutuel wagering on live racing conducted that day at the race track. This tax exemption shall remain in effect for any succeeding one (1) day international horse racing event if the event returns within three (3) years of the previously-held event. For the purposes of this subsection, the daily average handle shall be computed from the amount wagered only at the host track on live racing and shall not include money wagered:

(a) At a receiving track;

(b) At a simulcast facility;

(c) On telephone account wagering; or

(d) At a track participating as a receiving track or simulcast facility displaying simulcasts and conducting interstate wagering as permitted by KRS 230.3771 and 230.3773.

Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the amount of three-quarters of one percent (0.75%) of the total live racing handle for thoroughbred racing and one percent (1%) of the total live handle for harness racing.

(2) An excise tax is imposed on:

(a) All licensed tracks conducting telephone account wagering;

(b) All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the Kentucky Racing Commission; and

(c) All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.

(3) The tax imposed in subsection (2) of this section shall be in the amount of three percent (3%) of all money wagered under subsection (2) of this section during the fiscal year. A noncontiguous track facility approved by the Kentucky Racing Commission on or after January 1, 1999, shall be exempt from the tax imposed under this subsection, if the facility is established and operated by a licensed track which has a total annual handle on live racing of two hundred fifty thousand dollars ($250,000) or less. The amount of money exempted under this subsection shall be retained by the noncontiguous track facility, KRS 230.3771 and 230.378 notwithstanding. ***Beginning July 1, 2002, all licensed standardbred racing tracks and any noncontiguous track facility of such tracks and approved by the Kentucky Racing Commission on or after January 1, 1999, shall be exempt from the tax imposed under this subsection, and the amount of money so exempted shall be retained by the track, notwithstanding the provisions of Sections 47 and 48 of this Act.***

(4) An amount equal to two percent (2%) of the amount wagered shall be deducted from the tax imposed in subsection (2) of this section and deposited as follows:

(a) If the money is deducted from taxes imposed under subsection (2)(a) and (b) of this section, it shall be deposited in the thoroughbred development fund if the host track is conducting a thoroughbred race meeting or the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if the host track is conducting a harness race meeting; or

(b) If the money is deducted from taxes imposed under subsection (2)(c) of this section, to the thoroughbred development fund if interstate wagering is conducted on a thoroughbred race meeting or to the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if interstate wagering is being conducted on a harness race meeting.

(5) ***Three-tenths***[~~Two-tenths~~] of one percent ***(0.3%)***[~~(0.2%)~~] of the total amount wagered on live racing in Kentucky shall be deducted from the pari-mutuel tax levied in subsection (1) of this section, and ***three-tenths***[~~one twentieth~~] of one percent ***(0.3%)***[~~(0.05%)~~] of the total amount wagered on intertrack wagering shall be deducted for the pari-mutuel tax levied in subsection (2) of this section, and allocated to the equine industry program trust and revolving fund to be used for funding the equine industry program at the University of Louisville.

(6) One-tenth of one percent (0.1%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1), (2), and (3) of this section and deposited to a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subsection shall not replace other funds for capital purposes or operation of equine programs at state universities. The Kentucky Council on Postsecondary Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds. The Kentucky Council on Postsecondary Education may by administrative regulation establish procedures for administering the program and criteria for evaluating and awarding grants.

Section 55. KRS 230.265 is amended to read as follows:

(1) There is hereby created a panel, to be known as the Kentucky Equine Drug Research Council, to advise the commission on the conduct of equine drug research and testing commissioned by the Kentucky Racing Commission. The council shall consist of nine (9) members appointed by the Governor. It is recommended that the Governor appoint one (1) veterinarian from a list of three (3) submitted by the Kentucky Association of Equine Veterinarians, one (1) horseman from a list of three (3) submitted by the Kentucky division of the Horsemen's Benevolent and Protective Association, one (1) pharmacologist from a list of three (3) submitted by the University of Kentucky, one (1) thoroughbred breeder from a list of three (3) submitted by the Kentucky Thoroughbred Owners and Breeders, Inc., one (1) legislator from a list of three (3) submitted by the Legislative Research Commission, one (1) representative of a licensed racing association chosen by the Governor, one (1) member of the harness racing industry from a list of three (3) submitted by the chairman of the Kentucky Racing Commission, one (1) member from a list of three (3) submitted by the Kentucky Harness Horsemen's Association, and one (1) member of the Kentucky Racing Commission, from a list of three (3) submitted by the chairman of the Kentucky Racing Commission, to serve as chairman. The council shall meet at the call of the chairman, a majority of the council, or at the request of the commission. Members shall serve at the pleasure of their respective sponsoring organizations and shall receive no compensation for serving.

(2) The Kentucky Equine Drug Research Council shall review equine drug research and testing research being conducted at the University of Kentucky or with state funds and shall review and report to the commission on drug research and testing research being conducted elsewhere. The council shall advise the commission and make recommendations for establishing an effective drug regulatory policy for Kentucky racing. In addition, the council shall report to the General Assembly any needed changes regarding the regulation of drugs in horse racing in the Commonwealth of Kentucky.

(3) The commission shall receive ***fifteen-hundredths***[~~one tenth~~] of one percent ***(0.15%)***[~~(0.1%)~~] of the total amount wagered and subject to the pari-mutuel tax levied in KRS 138.510. This money shall be deducted from the pari-mutuel tax levied in KRS 138.510 and shall be used in financing drug research and testing research in Kentucky and shall be in addition to any funds appropriated to the commission for these purposes in the executive budget.

Section 56. KRS 13B.020 is amended to read as follows:

(1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.

(2) The provisions of this chapter shall not apply to:

(a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;

(b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;

(c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;

(d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;

(e) Administrative hearings conducted by the legislative and judicial branches of state government;

(f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;

(g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;

(h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;

(i) Administrative hearings exempted pursuant to subsection (3) of this section;

(j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and

(k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.

(3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:

(a) Finance and Administration Cabinet

1. Higher Education Assistance Authority

a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410

b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33

(b) Cabinet for Health Services
  1. Office of Certificate of Need
    a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B
    b. Licensure revocation hearings conducted under authority of KRS Chapter 216B

(c) Cabinet for Families and Children
  1. Department for Community Based Services
    a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630
  2. Department for Disability Determination Services
    a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404

(d) Justice Cabinet
  1. Department of State Police
    a. State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16
  2. Department of Corrections
    a. Parole Board hearings conducted under authority of KRS Chapter 439
    b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197
    c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197
  3. Department of Juvenile Justice
    a. Supervised placement revocation hearings conducted under KRS Chapter 635

(e) Labor Cabinet
  1. Department of Workers' Claims
    a. Workers' compensation hearings conducted under authority of KRS Chapter 342

(f) Natural Resources and Environmental Protection Cabinet
  1. Department for Surface Mining Reclamation and Enforcement
    a. Surface mining hearings conducted under authority of KRS Chapter 350
  2. Department for Environmental Protection
    a. Wild River hearings conducted under authority of KRS Chapter 146
    b. Water resources hearings conducted under authority of KRS Chapter 151
    c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223
    d. Environmental protection hearings conducted under authority of KRS Chapter 224

(g) Kentucky Occupational Safety and Health Review Commission
  1. Occupational safety and health hearings conducted under authority of KRS Chapter 338

(h) Public Protection and Regulation Cabinet
  1. Board of Claims
    a. Liability hearings conducted under authority of KRS Chapter 44
  2. Public Service Commission
    a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279

(i) Cabinet for Workforce Development
  1. Department for Employment Services
    a. Unemployment Insurance hearings conducted under authority of KRS Chapter 341

(j) Secretary of State
  1. Registry of Election Finance
    a. Campaign finance hearings conducted under authority of KRS Chapter 121

(k) State universities and colleges
  1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
  2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
  3. Campus residency hearings conducted under authority of KRS Chapter 164

4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99

5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.

(l) Hearings of the Kentucky Gaming Commission and other hearings authorized under KRS Chapter 230A, 1994 Ky. Acts ch. 382, sec. 19, and any other provision of law to the contrary notwithstanding.

(4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:

(a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;

(b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or

(c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.

(5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.

(6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

SECTION 57. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Any electronic gaming device operator with nonsupervisory employees whose work is directly related to pari-mutuel terminal operations, or to money room functions associated with pari-mutuel gaming, if such work is covered under the terms of a collective bargaining agreement, shall staff nonsupervisory positions directly related to electronic gaming using such employees, if:

(a) A collective bargaining agreement is in place at the time that the electronic gaming device operator is licensed;

(b) The employees are otherwise qualified to meet the licensing requirements of this chapter; and

(c) The employees also meet additional criteria specified by administrative regulations promulgated under this chapter.

(2) The job classifications, job duties, wage rates and benefits of such nonsupervisory positions directly related to electronic gaming may be established by agreement of the parties to the collective bargaining agreement through collective bargaining, or, in the absence of such an agreement, as may be established by the electronic gaming device operator.

Section 58. KRS 137.990 is amended to read as follows:

(1) (a) Any person who engages in any business or sells or offers to sell or has on hand for the purpose of sale any article or exercises any privilege for which a license is required or imposed by KRS 137.115 before procuring the license and paying the tax shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) for each offense, unless otherwise specifically provided;

(b) Any county clerk who violates any of the provisions of KRS 137.115, or any administrative regulation promulgated by the Revenue Cabinet thereunder, shall be fined not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) for each offense; and

(c) Any person who makes a false statement in securing a license under KRS 137.115 shall be deemed guilty of a misdemeanor.

(2) (a) Any person who violates any provision of KRS 137.120 to 137.160 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180; and

(b) Any person who violates any of the provisions of KRS 137.120 to 137.160 may be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for not less than thirty (30) days nor more than six (6) months, or both.

[~~(3) Any person who violates any of the provisions of KRS 137.170 or 137.180 shall be fined not more than one thousand dollars ($1,000) or imprisoned in the county jail not more than thirty (30) days, or both so fined and imprisoned. If the offender is a corporation, the principal officer or the officer or employee directly responsible for the violation, or both,~~

~~shall be punished as provided in this subsection.]~~

Section 59. KRS 138.550 is amended to read as follows:

In addition to all other penalties provided in KRS 138.510 to 138.540, when the pari-mutuel system of betting is operated at a track licensed under the provisions of KRS ***Chapter 230***~~[137.170]~~, said license may be suspended, revoked or renewal refused by the State Racing Commission upon the failure of the operator to comply with the provisions of KRS 138.510 to 138.540 or the rules and regulations promulgated by the Revenue Cabinet pursuant thereto even though the pari-mutuel system of betting and the track are operated by different persons, corporations or associations.

Section 60. KRS 230.360 is amended to read as follows:

The provisions of this chapter are intended to be statewide and exclusive in their effect and no city, county, or other political subdivision of state government shall have the power or authority to make or enforce any local laws, ordinances, or regulations on the subject of horse race meetings. Any person licensed under KRS 230.300 shall continue to pay, or be responsible for the payment of, all state taxes presently imposed by law, including but without limitation, license taxes imposed under KRS~~[137.170 to]~~ 137.190, and KRS 137.990 together with admission taxes imposed by KRS 138.480, and the pari-mutuel taxes imposed by KRS 138.510 to 138.550, and all state, as well as local, ad valorem taxes; provided, however, no tax shall be imposed by the state or any subdivision thereof upon, or measured by, that portion of the excise tax imposed upon pari-mutuel betting at running and trotting horse race tracks which is collected and retained by the operators thereof under the provisions of KRS 138.510 to 138.550, both inclusive.

Section 61. KRS 230.380 is amended to read as follows:

(1) Any track licensed by the commission to conduct horse racing and desiring to establish a simulcast facility shall apply for and may receive approval from the commission for each simulcast facility. Prior to considering an application for approval of a simulcast facility, the commission shall notify by regular mail, each state senator, state representative, county judge/executive, and mayor in the jurisdiction in which the proposed simulcast facility is located, at least ten (10) days in advance of the commission meeting at which the application is to be considered or voted upon. Consideration of an application shall be based on criteria contained in administrative regulations promulgated under KRS 230.300. Approval, if granted, shall be granted for a term of one (1) calendar year.

(2) A track or tracks may proceed with the establishment of a simulcast facility unless, within sixty (60) days of the date on which the commission approved the facility, the governing body of the local government jurisdiction in which the facility is to be located votes, by simple majority of those voting, to disapprove the establishment of the simulcast facility. For the purposes of this section, "governing body" means, in an incorporated area, the board of aldermen, city council or board of commissioners; in a county, the fiscal court; in an urban-county government, the urban-county council, or in a charter county, the legislative body created in accordance with KRS 67.825 to 67.875.

(3) The commission shall not approve the establishment of any simulcast facility within a radius of fifty (50) miles of a licensed track. The commission may approve the establishment of one (1) simulcast facility within a radius of greater than fifty (50) miles but less than seventy-five (75) miles of a licensed track, but the facility shall not be approved to operate without the prior written consent of the licensed track within whose seventy-five (75) mile radius the facility is located.

(4) The commission may promulgate administrative regulations as it deems appropriate to protect the integrity of pari-mutuel wagering at any simulcast facility.

(5) Licensed tracks conducting horse racing may enter into joint agreements to establish or operate one (1) or more simulcast facilities, on terms and conditions as the participating tracks may determine. Any agreements respecting these arrangements shall be filed with the commission, and applications for simulcast facilities shall be filed by and licenses may be issued to, these licensed tracks by the commission.

(6) A simulcast facility may be established and operated on property that is owned or leased and which is not used solely for the operation of a simulcast facility; provided however, that a simulcast facility may not be established on the premises of a lottery vendor.

(7) A simulcast facility shall not be subject to and shall not pay any excise tax imposed pursuant to KRS 138.510~~[, any license tax imposed under KRS 137.170,]~~ or any admission tax imposed under KRS 138.480.

(8) One percent (1%) of all moneys wagered at a simulcast facility shall be dedicated for local economic development and shall be allocated as follows:

  (a) If a simulcast facility is located in an incorporated area, seventy-five percent (75%) shall be allocated to the governing body of the city in which the facility is located, and twenty-five percent (25%) to the governing body of the county in which the facility is located.

  (b) If a simulcast facility is located in an unincorporated area, all moneys shall be allocated to the governing body of the county or charter county in which the facility is located.

(9) (a) After the deduction of moneys under subsection (8), simulcast facility shall deduct a commission allowed under KRS 230.3615 with respect to all wagers made at the simulcast facility. The commission, less moneys allocated in subsection (8) of this section, shall be split as follows:

    1. Thirty percent (30%) shall be allocated to the host track;

2. Forty-six and one-half percent (46.5%) to the purse program at the host track;

3. Thirteen and one-half percent (13.5%) to be retained by the track or tracks owning the simulcast facility for the purpose of application to expenses incurred in connection therewith;

4. Six percent (6%) to be allocated to the Kentucky Thoroughbred Owners and Breeders, Inc., to be expended as follows:

a. Up to three percent (3%) for capital improvements and promotion of off-track betting; and

b. The remainder for marketing and promoting the Kentucky thoroughbred industry; and

5. Four percent (4%) to be allocated to the commission to be used for purses at county fairs in Kentucky licensed and approved by the commission, and for the standardbred sires stakes program established under KRS 230.770.

(b) The commission of a simulcast facility derived from interstate wagering shall be reduced by any amounts required to be paid by contract to the host track or track conducting the live race before it is divided as set forth in this section. No simulcast facility may receive any interstate simulcast except with the approval of the live Kentucky host track.

(c) The Kentucky Thoroughbred Owners and Breeders, Inc., shall annually report to the commission on all money expended in accordance with subsection (9)(a)4. of this section. The report shall be in the form required, and provide all information required by the commission.

(10) Subsections (1) and (2) of this section shall also apply to the establishment by a track of a noncontiguous facility in a county in which pari-mutuel racing and wagering is not being conducted. Subsection (8) of this section shall also apply to a noncontiguous race track facility referenced in this subsection, unless there is a written agreement to the contrary between the track establishing the facility and the governing body of the local government jurisdiction in which the facility is to be established.

Section 62. KRS 230.550 is amended to read as follows:

(1) There is hereby established an Equine Industry Program at the University of Louisville, under the general control and direction of the university. The purpose of the Equine Industry Program is to provide training and educational opportunities in the horse racing industry relating to, but not limited to, finance, management, marketing, regulation and administration aspects of the horse racing industry, in accordance with the industry needs as determined by the university.

(2) There is hereby created a trust and revolving fund for the Equine Industry Program, consisting of money allocated to the fund together with money as may be contributed to the fund from all other sources. Money to the credit of the Equine Industry Program fund at the end of each fiscal year shall not lapse but shall be carried forward to the succeeding fiscal year. Money from the Equine Industry Program fund shall be administered by the University of Louisville and shall be allocated for the funding of the Equine Industry Program.

(3) *State moneys allocated to the equine program under Section 4 of this Act shall be used for the following purposes only:*

(a) The education of students which shall be broadly defined as programs and services that improve the education afforded students and the quality of the equine program and shall include but not be limited to the recruitment and retention of students, the awarding of scholarships, and the quality of instruction provided by staff and faculty;

(b) The conduct of surveys on equine issues; and

(c) The conduct of symposiums and seminars on issues affecting the racing industry.

(4) An annual symposium that promotes Kentucky's preeminence in the horse industry shall be held in the Commonwealth and shall be approved by a fifteen (15) member committee consisting of the following membership:

(a) One (1) member who shall be the President of the University of Louisville or his or her designee;

(b) One (1) member who shall be appointed by the Speaker of the Kentucky House of Representatives;

(c) One (1) member who shall be appointed by the President of the Kentucky Senate;

(d) One (1) member who shall be appointed by the thoroughbred racetracks licensed under this chapter;

(e) One (1) member who shall be appointed by the harness racetracks licensed under this chapter;

(f) One (1) member who shall be appointed by the Horseman's Benevolent Protective Association;

(g) One (1) member who shall be appointed by the Kentucky Thoroughbred Association;

(h) One (1) member who shall be appointed by the Kentucky Harness Horsemen's Association;

(i) One (1) member who shall be appointed by the Kentucky Racing Commission;

(j) One (1) member who shall be appointed by the thoroughbred breeders' associations and organizations;

(k) One (1) member who shall be appointed by the harness horse breeders' associations and organizations;

(l) One (1) member who shall be appointed by Appaloosa racing, quarter horse, Arabian, and point associations and organizations; and

(m) Three (3) at-large members who shall be appointed by the Governor.

(5) The President of the University of Louisville or his or her designee shall serve as chairman. Staff services shall be provided by the University of Louisville. Committee members shall serve at no costs and shall not be reimbursed for expenses from the funds allocated to the Equine Industry Program. If an appointment is to be made by multiple groups, associations, organizations, or tracks who are unable to agree on a representative, the position shall remain vacant until the applicable groups, associations, organizations, or tracks are able to agree on the representative. Appointed members shall serve a four (4) year term. No appointed member may serve more than two (2) consecutive terms.

(6) In overseeing and approving the seminars under subsection (4) of this section, the committee shall have authority over the annual symposium's time and location, the issues to be covered, the agenda, and other matters that the committee deems reasonable.

(7) The President of the University of Louisville or his or her designee shall have broad authority in conforming the Equine Industry Program to the provisions of this section, and notwithstanding other provisions of the Kentucky Revised Statutes may make such changes as needed to meet the requirements of this section.

(8) The University of Louisville shall utilize personnel and facilities of the University of Kentucky when appropriate for assistance in any cooperative undertakings the University of Louisville may wish to enter into with the University of Kentucky relating to the Equine Industry Program.

Section 63. Immediately after the effective date of this Act, representatives of the Kentucky Racing Commission established under KRS Chapter 230, the Kentucky Lottery Corporation established under KRS Chapter 154A, the Gaming Commission established under Section 3 of this Act, the Department of Charitable Gaming, and representatives from any other state agency that disburses or dedicates money for the prevention, education, or treatment of problem gamblers shall meet and establish a unified and comprehensive approach for the prevention, education, and treatment of problem gambling. This unified approach shall also be prepared in the form of a written report, which shall be submitted to the Legislative Research Commission no later than one hundred and twenty (120) days prior to the next regular legislative session. The report shall outline the comprehensive approach established for dealing with problem gambling and shall contain any proposed legislative changes that are deemed necessary to enhance the quality of prevention, education, and treatment of problem gambling in the Commonwealth.

Section 64. If any clause, sentence, paragraph, or other part of this Act shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid or unenforceable, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph, or other part of this Act directly involved in the controversy in which such judgment shall have been rendered.

Section 65. The following KRS sections are repealed:

137.170 Tentative state license tax on race meetings.

137.180 Report and payment of tentative state license tax -- Civil penalty for nonpayment.

Section 66. Whereas the state has a need for new revenue, and it is increasingly difficult for the racing industry to compete with increased gaming opportunities in neighboring states, and the operation of electronic gaming device games at licensed racetracks would generate new revenue for the state, help keep racing viable, and protect the substantial economic contribution the racing industry makes to the Commonwealth of Kentucky, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved to suspend the rules to allow for a Rules Committee Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 842, HB 639, HB 854, HCR 226,** and **HB 768** have been posted for passage in the Orders of the Day for March 19, 2002.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 732, HB 782, HB 795, HB 832, HB 851, HB 204, HB 435, HB 805, HB 408, HB 779, HB 838, HB 841, SB 159**

Orders of the Day

HB 68, with Committee Substitutes, Committee Amendment, and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved the adoption of the Committee Substitute No. 2 to **HB 68**. Agreed.

Representative Wilkey moved the adoption of Floor Amendment No. 1 to the Committee Substitute No. 2 to **HB 68**. Agreed.

Representative Haydon moved that **HB 68**, by way of Committee Substitute No. 2, as amended, be passed.

Representative J. Turner moved the adoption of Floor Amendment No. 2 to the Committee Substitute No. 2 to **HB 68**. Agreed.

On the roll call the vote was: **Yeas 96, Nays 1**. (See March 18, 2002, roll call on **HB 68** - Appendix.)

Floor Amendment No. 2 to the Committee Substitute No. 2 to **HB 68**, was adopted.

Representative Gooch moved the adoption of Floor Amendment No. 5 to the Committee Substitute No. 2 to **HB 68**.

Representative Wilkey inquired if Floor Amendment No. 5 was a piggyback.

Speaker Richards ruled that Floor Amendment No. 5 was a piggyback.

Representative Wilkey inquired if Floor Amendment No. 5 was germane.

Speaker Richards ruled that Floor Amendment No. 5 was not germane.

Representative Haydon moved that **HB 68**, by way of Committee Substitute No. 2, as amended, be passed.

On the roll call the vote was: **Yeas 51, Nays 47**. (See March 18, 2002, roll call on **HB 68** - Appendix.)

HB 68, by way of Committee Substitute No. 2, as amended, was passed and the title agreed to.

Representative Haydon moved that the vote by which **HB 68**, by way of Committee Substitute No. 2, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 170 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 634** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -6:15 P.M.)

Orders of the Day (Continued)

Representative Nelson moved that **HJR 170** be adopted.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 18, 2002, roll call on **HJR 170** - Appendix.)

HJR 170 was adopted.

Representative Nelson moved that the vote by which **HJR 170** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 180 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved that **HJR 180** be adopted.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 18, 2002, roll call on **HJR 180** - Appendix.)

HJR 180 was adopted.

Representative Gooch moved that the vote by which **HJR 180** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 688, with Committee Substitute, Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Dw. Butler moved the adoption of the Committee Substitute to **HB 688**. Agreed.

Representative Dw. Butler moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 688**. Agreed.

Representative Dw. Butler moved that **HB 688**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See march 18, 2002, roll call on **HB 688** - Appendix.)

HB 688, by way of Committee Substitute, as amended, was passed.

Representative Dw. Butler moved the adoption of Committee Amendment No. 1 Title to **HB 688**. Agreed.

Representative Dw. Butler moved that the vote by which **HB 688**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 804, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved the adoption of Floor Amendment No. 1 to **HB 804**. Agreed.

Representative Heleringer moved that **HB 804**, as amended, be passed.

On the roll call the vote was: **Yeas 75, Nays 13**. (See March 18, 2002, roll call on **HB 804** - Appendix.)

HB 804, as amended, was passed and the title agreed to.

Representative Heleringer moved that the vote by which **HB 804**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 812, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Floor Amendment No. 1 to **HB 812**. Agreed.

Representative Moberly moved that **HB 812**, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 18, 2002, roll call on **HB 812** - Appendix.)

HB 812, as amended, was passed.

Representative Moberly moved the adoption of Floor Amendment No. 2 Title to **HB 812**. Agreed.

Representative Moberly moved that the vote by which **HB 812**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 132, with Committee Substitute taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoffman moved the adoption of the Committee Substitute to **HCR 132**. Agreed.

Representative Hoffman moved that **HCR 132** be adopted.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 18, 2002, roll call on **HCR 132** - Appendix.)

HCR 132 was adopted.

Representative Hoffman moved that the vote by which **HCR 132** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 191 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HJR 191** be adopted.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 18, 2002, roll call on **HJR 191** - Appendix.)

HJR 191 was adopted.

Representative Palumbo moved that the vote by which **HJR 191** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 747, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved the adoption of the Committee Substitute to **HB 747**. Agreed.

Representative Palumbo moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 747**. Agreed.

Representative Webb moved that **HB 747**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 88, Nays 2**. (See March 18, 2002, roll call on **HB 747** - Appendix.)

HB 747, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 747**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 680 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Smith moved that **HB 680** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 18, 2002, roll call on **HB 680** - Appendix.)

HB 680 was passed and the title agreed to.

Representative Smith moved that the vote by which **HB 680** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 729 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Draud moved that **HB 729** be passed.

On the roll call the vote was: **Yeas 43, Nays 40**. (See March 18, 2002, roll call on **HB 729** - Appendix.)

HB 729 was passed and the title agreed to.

Representative Draud moved that the vote by which **HB 729** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 444, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Clark moved the adoption of the Committee Substitute to **HB 444**. Agreed.

Representative P. Clark moved that **HB 444**, by way of Committee Substitute, be passed.

Representative P. Clark moved the adoption of Committee Amendment No. 1 to **HB 444**. Agreed.

Representative P. Clark moved that **HB 444**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 87, Nays 0**. (See March 18, 2002, roll call on **HB 444** - Appendix.)

HB 444, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative P. Clark moved that the vote by which **HB 444**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 839, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved the adoption of the Committee Substitute to **HB 839**. Agreed.

Representative Stein moved that **HB 839**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 18, 2002, roll call on **HB 839** - Appendix.)

HB 839, by way of Committee Substitute, was passed.

Representative Stein moved the adoption of Committee Amendment No. 1 Title to **HB 839**. Agreed.

Representative Stein moved that the vote by which **HB 839**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 867, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved the adoption of the Committee Substitute to **HB 867**. Agreed.

Representative Weaver moved that **HB 867**, by way of Committee Substitute, be passed.

Representative Treesh moved that a fiscal statement be attached to **HB 867** in accordance with House Rule 52.

On the roll call the vote was: **Yeas 45, Nays 39**. (See March 18, 2002, roll call on **HB 867** - Appendix.)

The motion that a fiscal note be attached to **HB 867** was adopted.

Representative Stumbo moved that **HB 867** be returned to the Orders of the Day and retain its position therein. Agreed.

Representative Stumbo moved that the rules be suspended to act on Committee Amendment No. 1 Title to **HB 68**. Agreed.

Representative Stumbo moved the adoption of Committee Amendment No. 1 title to **HB 68**. Agreed.

Committe Amendment No. 1 Title to **HB 68** was adopted.

Motions, Petitions, and Communications

Representative Stumbo moved to waive the posting requirement on the following: **SB 219, SB 55, SB 164, HCR 239, HB 840, HB 781, SB 152, HB 769** and **HCR 244**. Agreed.

Representative Stumbo moved that the rules be suspended for Introductions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HR 245, by Representatives Smith and Graham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Roy Lee Hall.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **SB 150**

Natural Resources: **HCR 244**

Education: **SB 166, SB 167, SB 241, SB 243, SB 254, SCR 142**

Motions, Petitions, and Communications (Continued)

Representative Smith moved to suspend the rules to act on a Resolution. Agreed.

Representative Smith moved the adoption of the following **HR 245**:

HR 245, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Roy Lee Hall.

With deepest respect and admiration, we pay homage and tribute to Roy Lee Hall, and we pause in silent reverence for his soul.

WHEREAS, Roy Lee Hall was born on March 8, 1930, a native of Franklin County, Kentucky, and he traversed these earthly bounds on March 15, 2002; and

WHEREAS, Roy Lee Hall was the loving son of the late Arthur May and Anna Will Moreland Hall, and he was also preceded in death by two loving brothers, Alex "Buck" Hall and Arthur May Hall, Jr.; he was the devoted husband of Dorothy Turner Hall; he was the loving father of a son, Roy Lee Hall II, of Frankfort, and three loving daughters, Millie Ann Hall Crawford of Frankfort, Teresa Gayle Hall of Lexington, and Peggy Sue Hall Plessas of Paris, France; he was the proud grandfather of eight grandchildren; and he was the loving brother of two surviving sisters, Anna Frances Harrod and Ella Mae D'Ambrosio, both of Frankfort; and

WHEREAS, Roy Lee Hall served his country with distinction and pride in the United States Air Force during the Korean War, and he was a member of American Legion Post 7, a life member of D.A.V., and he was a devout member of the Church of the Ascension where his funeral services were held on Monday, March 18, 2002, at 11:30 a.m., with Father Charles Ellestad officiating; and

WHEREAS, the passing of Roy Lee Hall has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Roy Lee Hall, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Roy Lee Hall.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Dorothy Turner Hall, 9440 Owenton Road, Frankfort, Kentucky 40061.

There being no objection **HR 245** was adopted.

Representative L. Clark moved the adoption of the following **HR 238**:

HR 238, A RESOLUTION urging that bowling be added as a letter sport by the Kentucky High School Athletic Association.

WHEREAS, bowling is currently being considered for inclusion in the Olympics as a medal sport; and

WHEREAS, in the year 2000, the sport of bowling had 53.8 million participants age six and older, according to surveys conducted by American Sports Data; and

WHEREAS, 35 percent of all bowlers are between the ages of 6 and 17, indicating an increasing interest in the sport among school-aged individuals; and

WHEREAS, various international committees are developing standards for documenting bowling scores, regulating the types of bowling balls and wood used for bowling lanes, and increasing both the skill and physical fitness needed to successfully compete in "sport bowling"; and

WHEREAS, 21,144 high schools throughout the United States have bowling teams; and

WHEREAS, 7 states currently recognize bowling as a letter sport; and

WHEREAS, bowling is the sport most frequently cited by adults surveyed that is continued by individuals as they age, providing upper body strengthening and weight-bearing exercise that helps prevent the development of osteoporosis;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives urges the Kentucky High School Athletic Association to recognize bowling as a letter sport to encourage greater involvement in the sport among students in Kentucky public high schools.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Kentucky High School Athletic Association, 2280 Executive Drive, Lexington, Kentucky 40505.

There being no objection **HR 238** was adopted.

Representative Gooch moved the adoption of the following **Legislative Citation No. 90**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Patrick Thompson and joins with Representative Jim Gooch, Jr. in expressing deepest sympathy to the Thompson Family and all those who share in the untimely loss of this cherished young citizen. A student at Murray State University, he is survived by his parents, Dr. Ronald and Kim Thompson and Mike and Lynda Hudson; sister, Lauren Thompson; grandparents, Dr. Kenny and Dorothy Hand and Ivy Haynes; step-grandmother Frances Hudson; step-sister, Amy Hite; step-brother, Glenn Hudson; and a host of friends; all of whom mourn his passing. Patrick Thompson is remembered on this day with sorrow and regret for the brevity of his days and with remembrance for the joy he brought to those who loved and knew him. Done in Frankfort, Kentucky, this eighteenth day of March, in the year two thousand and two.

Legislative Citation No. 90 was adopted without objection.

Representative Denham moved the adoption of the following **HR 34**:

HR 34, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Harry C. Denham.

With deepest respect and admiration, we pay homage and tribute to Harry C. Denham, and we pause in silent reverence for his soul.

WHEREAS, Harry C. Denham was born on June 17, 1918, a native of Lewis County, Kentucky, and he traversed these earthly bounds on August 25, 2001; and

WHEREAS, Harry C. Denham was the loving son of the late Henry Harvey Denham and Mary Bertram Denham; he was the devoted husband of Minkie C. Denham; he was the loving father of,a son, John R. Denham of Maysville, and a daughter, Cindy Gardner of Lexington; and he was the proud grandfather of six grandchildren, Jay Stockton Denham, Clayton Rees Denham, John Sterling Denham, Whitney Taylor Gardner, Mason Stuart Gardner, and Samuel Elliott Gardner; and

WHEREAS, Harry C. Denham graduated from Maysville High School in 1936 where he lettered in football and basketball; he received his bachelor's degree from the University of Kentucky in 1941 where he also lettered in football and basketball, and he was past president of the University of Kentucky Alumni Association and served on the Board of Trustees for 10 years; he graduated from the University of Louisville Medical School in 1944, and after serving his country with distinction in the United States Army Medical Corps Department of Surgery in Vienna, Austria, he returned to Maysville in 1950 as general practitioner, obstetrician, and surgeon; and in 1956, he and his brother, Dr. Mitchell Denham, opened the Denham Medical Clinic from which he retired on August 31, 1984; and

WHEREAS, Harry C. Denham was an esteemed member of the Maysville community where he was a devout member and chairman of the board of Trinity United Methodist Church; he served as past chairman of the Mason County Medical Society, was a member of the Kentucky Surgical Society, and served several terms as Hayswood Hospital Chief of Staff; he was an advocate of education, serving on the Kentucky School Board Association for 12 years and on the Maysville School Board for 21 years, but his proudest moment came as being one of the founding fathers of Maysville Community College; he was past president of the Maysville Country Club and the Maysville Lions Club; he was the recipient of the 1970 Maysville High School Distinguished Alumnus Award and he was elected to the College Football Hall of Fame; and

WHEREAS, the passing of Harry C. Denham has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its profound sense of sorrow upon the passing of Harry C. Denham, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Harry C. Denham.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Minkie C. Denham, 405 West Second Street, Maysville, Kentucky 41056.

There being no objection **HR 34** was adopted.

Representative Rasche moved the adoption of the following **HR 234**:

HR 234, A RESOLUTION urging support of the Barkley Regional Airport in Paducah, Kentucky.

WHEREAS, Barkley Regional Airport in Paducah, Kentucky, is one of only five commercial airports in Kentucky; and

WHEREAS, Barkley Regional Airport is the only major airport serving western Kentucky; and

WHEREAS, Barkley Regional Airport is the only remaining nonsubsidized regional commercial airport in Kentucky; and

WHEREAS, creating employment opportunities to replace the 2,000 jobs lost during the past eighteen months in western

Kentucky is a top priority for local elected officials and for area business and community leaders; and

WHEREAS, Barkley Regional Airport is a major transportation artery for conveying customers, suppliers, and tourists to western Kentucky; and

WHEREAS, improvements to the terminal, the airport's technical capabilities, and its infrastructure are vital for securing additional air service which will have a positive effect on the recruitment of new industries, expansion of existing industries, and the development of the Purchase Area Regional Industrial Park as well as individual community industrial sites;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives hereby supports the efforts of Barkley Regional Airport, a vital component in maintaining a healthy economy and a good quality of life for area residents, to secure funding to expand its air service, and to improve its facilities.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution to Richard Roof, Airport Manager, Paducah Airport Corporation, P.O. Box 1131, Paducah, Kentucky 42002-1131.

There being no objection **HR 234** was adopted.

Representative J. Lee moved the adoption of the following **HR 243**:

HR 243, A RESOLUTION urging the Hyundai Motor Company to locate its first North American production facility in the Commonwealth of Kentucky.

WHEREAS, it has come to be known that the Hyundai Motor Company is actively seeking a site to locate its finest automobile assembly facility in North America; and

WHEREAS, the great state of Kentucky extends a warm welcome to the Hyundai Motor Company and pledges to it the finest workforce in North America that is also committed to the manufacture and development of quality products and services and the continuous search for improvement; and

WHEREAS, the great state of Kentucky stands at the crossroads of America, with over seventy-five percent of the North American market accessible by road or rail within twenty-four hours; and

WHEREAS, the great state of Kentucky stands ready to offer many resources that are uniquely poised to help the Hyundai Motor Company achieve its goals, some of which are the most productive workforce in these United States, the ready availability of low-cost energy, and many ideal locations upon which the Hyundai Motor Company may build its automobile assembly facility;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby urge the Hyundai Motor Company of South Korea to locate its automobile assembly facility within the Commonwealth of Kentucky, and the House of Representatives of the General Assembly of the Commonwealth of Kentucky does hereby stand ready to offer a warm welcome to what it hopes shall become Kentucky's newest corporate citizen.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the honorable Mong-Koo Chung, Chairman and Chief Executive Officer, and to the honorable Dong-Jin Kim, President and Chief Executive Officer, Hyundai Motor Company, 231 Yangjae-Dong, Seocho-Ku, Seoul, 137-938, Korea.

There being no objection **HR 243** was adopted.

Representative Graham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Graham moved that he be recorded as voting "yea" on **HB 729**. Agreed.

Representative Draud moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Draud moved that he be recorded as voting "yea" on **HB 507**. Agreed.

Representative Baugh moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Baugh moved that he be recorded as voting "yea" on **HB 729** and **HB 839**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 2 to **SB 41**, by Representative Baugh:

On page 5, line 14, before "All" by inserting "***(1)***"; and

On page 5, by deleting all new material on lines 15 to 19 and inserting in lieu thereof

"***(2) Applications required to be filed with the department may also be filed in a language other than English. The non-English version of the application shall:***

(a) Be filed with the department;

(b) Be accompanied by a certification written in English that the non-English version is a complete and accurate translation of the English form filed;

(c) Be in the same format as the English version; and

(d) Contain all items in English immediately followed in parenthesis with the non-English translation.

(3)"; and

On page 5, line 23, before "If" by inserting "***(4)***"; and

On page 5, line 24, by deleting "***translation***" and inserting in lieu thereof "***version***".

Floor Amendment No. 1 to the Committee Substitute to **HB 855**, by Representative Haydon:

On page 4, line 6, by blocking and striking through both instances of "six (6)" and inserting in lieu thereof, in both places, "***nine (9)***"; and

On page 4, line 7, by blocking and striking through "is encouraged to" and inserting in lieu thereof, "***shall***"; and

On page 4, line 10, by inserting after the comma, "***three (3) winery operators,***"; and

On page 4, line 10, by inserting after "(2)", "***grape producers***"; and

On page 4, line 11, by blocking and striking through "three (3)" and inserting in lieu thereof, "***ten (10)***"; and

On page 4, line 11, by inserting after "Society", "***and the Kentucky Grape and Wine Council***"; and

On page 4, line 14, by blocking and striking through "Four (4)", and inserting in lieu thereof, "***Five (5)***"; and

On page 4, line 16, by blocking and striking through "three (3)", and inserting in lieu thereof, "***five (5)***".

Floor Amendment No. 2 to **HB 528**, by Representative Nelson:

On page 1, beginning on line 2, by deleting all language lines 2 through the end of line 12 and inserting in lieu thereof the following:

"(1) The Education Professional Standards Board, established in KRS 161.028, shall be headed by an executive director who shall be responsible for the day to day operations of the board including the following:

(a) ***Recommending the***[~~Setting up~~]appropriate organizational structures [~~and personnel policies~~] for approval by the board ***and the commissioner of education***;

(b) ***Recommending all staff appointments necessary to carry out the responsibilities of the board to the commissioner of education who shall have the final approval***[~~Appointing all staff, including the deputy executive director~~];

(c) Preparing annual reports on the board's program of work;

(d) Carrying out policy and program directives of the board;

(e) Preparing and submitting to the board for its approval a proposed biennial budget; and

(f) Performing all other duties and responsibilities assigned by state law.";

On page 1, line 18, after "KRS 161.028" by inserting "***The commissioner of education shall appoint the individual recommended by the board, unless he or she has evidence that the applicant is unsuitable for appointment.***;

On page 1, line 19, after "board" by inserting "***and the commissioner of education***";

On page 2, beginning on line 7, by deleting all language through the end of line 9 and inserting in lieu thereof

"(1) [~~The Education Professional Standards Board is recognized to be a public body corporate and politic and an agency and instrumentality of the Commonwealth, in the performance of essential governmental functions.~~] The Education Professional";

On page 4, beginning on line 13, by deleting all language through the end of line 4 on page 8 and inserting in lieu thereof the following:

"(n) Recruit, select, ***and recommend to the commissioner of education the employment of the executive director. The commissioner shall accept the recommendation of the board, unless he or she has documented evidence that the applicant is unsuitable for appointment.***[~~employ~~] ***The board with input from the commissioner of education shall*** [~~and~~] evaluate the executive director to the board;

(o) [~~Approve employment procedures for the employment of policy level staff, subject to the provisions of KRS 12.050;~~

~~(p)~~] Approve the biennial budget request;

(p)[~~(q)~~] Charge reasonable fees for the issuance, reissuance, and renewal of certificates that are established by administrative regulation. The proceeds shall be used to meet a portion of the costs of the issuance, reissuance, and renewal of certificates, and the costs associated with revoking certificates;

(q)[~~(r)~~] Waive a requirement that may be established in an administrative regulation promulgated by the board. A request for a waiver shall be submitted to the board, in writing, by an applicant for certification, a postsecondary institution, or a superintendent of a local school district, with appropriate justification for the waiver. The board may approve the request if the person or institution seeking the waiver has demonstrated extraordinary circumstances justifying the waiver. Any waiver granted under this subsection shall be subject to revocation if the person or institution falsifies information or subsequently fails to meet the intent of the waiver;

(r)[~~(s)~~] Promote the development of one (1) or more innovative, nontraditional or alternative administrator or teacher preparation programs through public or private colleges or universities, private contractors, the Department of Education, or the Kentucky Commonwealth Virtual University and waive administrative regulations if needed in order to implement the program;

(s)[~~(t)~~] Grant approval, if appropriate, of a university's request for an alternative program that enrolls students in a postbaccalaureate teacher preparation program concurrently with employment as a teacher in a local school district. A student in the alternative program shall be granted a temporary provisional certificate and shall be a candidate in the Kentucky Teacher Internship Program, notwithstanding provisions of KRS 161.030. The temporary certificate shall be valid for a maximum of two (2) years, and shall be contingent upon the candidate's continued enrollment in the preparation program and compliance with all requirements established by the board. A professional certificate shall be issued upon the teacher candidate's successful completion of the program, the internship requirements, and all assessments required by the board;

(t)[~~(u)~~] Grant approval, if appropriate, of a university's request for an alternative program that enrolls an administrator candidate in a postbaccalaureate administrator preparation program concurrently with employment as an assistant principal, principal, assistant superintendent, or superintendent in a local school district. An administrator candidate in the alternative program shall be granted a temporary provisional certificate and shall be a candidate in the Kentucky Principal Internship Program, notwithstanding provisions of KRS 161.030, or the Superintendent's Assessment process, notwithstanding provisions of KRS 156.111, as appropriate. The temporary certificate shall be valid for a maximum of two (2) years, and shall be contingent upon the candidate's continued enrollment in the preparation program and compliance with all requirements established by the board. A professional certificate shall be issued upon the candidate's successful completion of the program, internship requirements, and assessments as required by the board;

(v) ***Recommend the employment of*** [~~Employ~~] consultants as needed ***to the commissioner of education for approval***;

(w) [~~Enter into contracts;~~

~~(x)~~] Sponsor studies, conduct research, conduct conferences, and publish information as appropriate; and

(x)[~~(y)~~]Issue orders as necessary in any administrative action before the board.

(2) (a) The board shall be composed of seventeen (17) members. The chief state school officer and the president of the Council on Postsecondary Education, or their designees, shall serve as ex officio voting members. The Governor shall make the following fifteen (15) appointments:

1. Nine (9) members who shall be teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational classrooms;
2. Two (2) members who shall be school administrators, one (1) of whom shall be a school principal;
3. One (1) member representative of local boards of education; and
4. Three (3) members representative of postsecondary institutions, two (2) of whom shall be deans of colleges of education at public universities and one (1) of whom shall be the chief academic officer of an independent not-for-profit college or university.

(b) The members appointed by the Governor after June 21, 2001, shall be confirmed by the Senate and the House of Representatives under KRS 11.160. If the General Assembly is not in session at the time of the appointment, persons appointed shall serve prior to confirmation, but the Governor shall seek the consent of the General Assembly at the next regular session or at an intervening extraordinary session if the matter is included in the call of the General Assembly.

(c) A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs. A member shall continue to serve until his successor is named. Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he was appointed shall no longer be eligible to serve in that position.

(d) Members of the board shall serve without compensation but shall be permitted to attend board meetings and perform other board business without loss of income or other benefits.

(e) A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from his employment while performing board business shall be reimbursed by the board for the actual amount of any costs incurred.

(f) A chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chairman. The executive secretary shall keep records of proceedings. Regular meetings shall be held at least semiannually on call of the chairman. The Department of Education shall provide staff and support for the board.

(g) To carry out the functions relating to its duties and responsibilities, the board is empowered to receive donations and grants of funds; to ***fund*** ~~[appoint]~~ consultants as needed ***and approved by the commissioner of education***; and to sponsor studies, conduct conferences, and publish information.

Section 3. KRS 161.126 is amended to read as follows:

(1) The "designated state official" for this state shall be the ***commissioner of education***~~[executive director of the Education Professional Standards Board]~~. The ***commissioner***~~[executive director]~~ shall enter into contracts pursuant to Article III of the agreement only with the approval of the specific text by the Education Professional Standards Board.

(2) True copies of all contracts made on behalf of this state pursuant to the agreement shall be kept on file in the office of the ***commissioner*** ~~[Education Professional Standards Board]~~ and in the office of the Secretary of State. The ***commissioner***~~[executive director of the board]~~ shall publish all contracts in convenient form.

Section 4. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.

2. Lieutenant Governor.

3. Department of State.

(a) Secretary of State.

(b) Board of Elections.

(c) Registry of Election Finance.

4. Department of Law.

(a) Attorney General.

5. Department of the Treasury.

(a) Treasurer.

6. Department of Agriculture.

(a) Commissioner of Agriculture.

(b) Kentucky Council on Agriculture.

7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:

(a) Department of State Police.

(b) Department of Criminal Justice Training.

(c) Department of Corrections.

(d) Department of Juvenile Justice.
(e) Office of the Secretary.
(f) Offices of the Deputy Secretaries.
(g) Office of General Counsel.
(h) Division of Kentucky State Medical Examiners Office.
(i) Parole Board.
(j) Kentucky State Corrections Commission.
(k) Commission on Correction and Community Service.

2. Education, Arts, and Humanities Cabinet:
(a) Department of Education.
(1) Kentucky Board of Education.
(2) Education Professional Standards Board.
(b) Department for Libraries and Archives.
(c) Kentucky Arts Council.
(d) Kentucky Educational Television.
(e) Kentucky Historical Society.
(f) Kentucky Teachers' Retirement System Board of Trustees.
(g) Kentucky Center for the Arts.
(h) Kentucky Craft Marketing Program.
(i) Kentucky Commission on the Deaf and Hard of Hearing.
(j) Governor's Scholars Program.
(k) Governor's School for the Arts.
(l) Operations and Development Office.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.
(o) Board of Directors for the Center for School Safety.

3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Information Services.
(h) Office of Inspector General.

4. Transportation Cabinet:
(a) Department of Highways.
1. Office of Program Planning and Management.
2. Office of Project Development.
3. Office of Construction and Operations.
4. Office of Intermodal Programs.
5. Highway District Offices One through Twelve.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Department of Human Resources Management.
(g) Office of the Secretary.

(h) Office of General Counsel and Legislative Affairs.
(i) Office of Public Affairs.
(j) Office of Transportation Delivery.
(k) Office of Minority Affairs.
(l) Office of Policy and Budget.
(m) Office of Technology.
(n) Office of Quality.

5. Cabinet for Economic Development:
    (a) Department of Administration and Support.
    (b) Department for Business Development.
    (c) Department of Financial Incentives.
    (d) Department of Community Development.
    (e) Department for Coal County Development.
    (f) Tobacco Research Board.
    (g) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
    (a) Public Service Commission.
    (b) Department of Insurance.
    (c) Department of Housing, Buildings and Construction.
    (d) Department of Financial Institutions.
    (e) Department of Mines and Minerals.
    (f) Department of Public Advocacy.
    (g) Department of Alcoholic Beverage Control.
    (h) Kentucky Racing Commission.
    (i) Board of Claims.
    (j) Crime Victims Compensation Board.
    (k) Kentucky Board of Tax Appeals.
    (l) Backside Improvement Commission.
    (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
    (n) Department of Charitable Gaming.
    (o) Mine Safety Review Commission.
7. Cabinet for Families and Children:
    (a) Department for Community Based Services.
    (b) Department for Disability Determination Services.
    (c) Public Assistance Appeals Board.
    (d) Office of the Secretary.
        (1) Kentucky Commission on Community Volunteerism and Service.
    (e) Office of the General Counsel.
    (f) Office of Program Support.
    (g) Office of Family Resource and Youth Services Centers.
    (h) Office of Technology Services.
    (i) Office of the Ombudsman.
    (j) Office of Performance Enhancement.
8. Cabinet for Health Services.
    (a) Department for Public Health.
    (b) Department for Medicaid Services.
    (c) Department for Mental Health and Mental Retardation Services.
    (d) Kentucky Commission on Children with Special Health Care Needs.

(e) Office of Certificate of Need.
(f) Office of the Secretary.
(g) Office of the General Counsel.
(h) Office of Program Support.
(i) Office of the Inspector General.
(j) Office of Aging Services.

9. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g) State Property and Buildings Commission.
(h) Kentucky Pollution Abatement Authority.
(i) Kentucky Savings Bond Authority.
(j) Deferred Compensation Systems.
(k) Office of Equal Employment Opportunity Contract Compliance.
(l) Office of Capital Plaza Operations.
(m) County Officials Compensation Board.
(n) Kentucky Employees Retirement Systems.
(o) Commonwealth Credit Union.
(p) State Investment Commission.
(q) Kentucky Housing Corporation.
(r) Governmental Services Center.
(s) Kentucky Local Correctional Facilities Construction Authority.
(t) Kentucky Turnpike Authority.
(u) Historic Properties Advisory Commission.
(v) Kentucky Tobacco Settlement Trust Corporation.
(w) Eastern Kentucky Exposition Center Corporation.

10. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Information Technology.
(m) Office of Labor-Management Relations and Mediation.
(n) Office of General Counsel.
(o) Workers' Compensation Funding Commission.
(p) Employers Mutual Insurance Authority.

11. Revenue Cabinet:

- (a) Department of Property Valuation.
- (b) Department of Tax Administration.
- (c) Office of Financial and Administrative Services.
- (d) Department of Law.
- (e) Department of Information Technology.
- (f) Office of Taxpayer Ombudsman.

12. Tourism Development Cabinet:
    - (a) Department of Travel.
    - (b) Department of Parks.
    - (c) Department of Fish and Wildlife Resources.
    - (d) Kentucky Horse Park Commission.
    - (e) State Fair Board.
    - (f) Office of Administrative Services.
    - (g) Office of General Counsel.
    - (h) Tourism Development Finance Authority.
13. Cabinet for Workforce Development:
    - (a) Department for Adult Education and Literacy.
    - (b) Department for Technical Education.
    - (c) Department of Vocational Rehabilitation.
    - (d) Department for the Blind.
    - (e) Department for Employment Services.
    - (f) State Board for Adult and Technical Education.
    - (g) The State Board for Proprietary Education.
    - (h) The Foundation for Adult Education.
    - (i) Department for Training and Reemployment.
    - (j) Office of General Counsel.
    - (k) Office of Communication Services.
    - (l) Office of Development and Industry Relations.
    - (m) Office of Workforce Analysis and Research.
    - (n) Office for Administrative Services.
    - (o) Office for Policy and Budget.
    - (p) Office of Personnel Services.
    - (q) Unemployment Insurance Commission.
14. Personnel Cabinet:
    - (a) Office of Administrative and Legal Services.
    - (b) Department for Personnel Administration.
    - (c) Department for Employee Relations.
    - (d) Kentucky Public Employees Deferred Compensation Authority.
    - (e) Kentucky Kare.
    - (f) Division of Performance Management.
    - (g) Division of Employee Records.
    - (h) Division of Staffing Services.
    - (i) Division of Classification and Compensation.
    - (j) Division of Employee Benefits.
    - (k) Division of Communications and Recognition.
    - (l) Office of Public Employee Health Insurance.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.

2. Council on Postsecondary Education.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. The Governor's Office for Technology.
9. Commission on Small Business Advocacy.

[~~10. Education Professional Standards Board.~~]

Section 5. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on Postsecondary Education;
(2) Department of Military Affairs;
(3) Department for Local Government;
(4) Kentucky Commission on Human Rights;
(5) Kentucky Commission on Women;
(6) Kentucky Commission on Military Affairs;
(7) Kentucky Coal Council;
(8) Governor's Office of Child Abuse and Domestic Violence Services;
(9) Governor's Office for Technology;
(10) Office of Coal Marketing and Export;
(11) Agricultural Development Board;
(12) Commission on Small Business Advocacy;
(13) Office of Early Childhood Development; ***and***
(14) Kentucky Agency for Substance Abuse Policy[~~; and~~
~~(15) Education Professional Standards Board~~].".

Floor Amendment No. 10 to the Committee Substitute to **SB 2**, by Representative Marzian:

On page 1, line 6, after "***prevention***" by deleting "***and education***";

On page 2, line 15, after "[~~11.~~]" by deleting all remaining new text through "***15.***" on line 20;

On page 2, line 22, by deleting "***16***" and inserting "***15***" in lieu thereof;

On page 2, line 24, by deleting "***17***" and inserting "***16***" in lieu thereof;

On page 2, line 26, by deleting "***18***" and inserting "***17***" in lieu thereof;

On page 3, line 1, by deleting "***19***" and inserting "***18***" in lieu thereof;

On page 3, line 5, by deleting all text on line 5 through line 10 and inserting the following in lieu thereof:

"***19. One (1) representative from Kentucky Youth Advocates;***";

On page 3, line 11, by deleting "***22***" and inserting "***20***" in lieu thereof;

On page 3 line 13, by deleting "***23***" and inserting "***21***" in lieu thereof and after "***represent***" by deleting "***one (1)***" and inserting "***a separate***" in lieu thereof;

On page 3, line 18, by deleting "***24***" and inserting "***22***" in lieu thereof;

On page 4, line 12, after "quorum" by inserting "***consisting of a simple majority***" and deleting "***sixteen (16)***";

On page 5, line 14, after "(2)" by deleting all text through line 17 and by inserting in lieu thereof the following:

"Monitor the data and issues related to youth alcohol and tobacco access, smoking cessation and prevention, and substance abuse ***prevention*** policies***;***

(3) Monitor the[~~, their~~] impact ***of policies*** on state and local ***prevention*** programs, and their flexibility to adapt to the needs of local communities and ***prevention strategies***[~~service providers~~];

(4) Examine the impact of treatment policies, resources, and strategies on prevention strategies;";

On page 5, at the beginning of line 18, by inserting "***(5)***" and bracketing and striking through "(3)";

On page 5, lines 20 and 21, after "***prevention***" by deleting "***and education***";

On page 5, at the beginning of line 25, by inserting "***(6)***" and bracketing and striking through "(4)";

On page 5, line 26, after "prevention", by deleting "***and***";

On page 5, line 26, by deleting the closing bracket;

On page 5, line 27, by striking through "education" and by removing the opening bracket before the comma;

On page 6, at the beginning of line 1, by inserting "***(7)***" and bracketing and striking through "(5)";

On page 6, at the beginning of line 3, by inserting "***(8)***" and bracketing and striking through "(6)";

On page 6, line 6, after "***prevention***" by deleting "***and education***";

On page 6, at the beginning of line 9, by inserting "***(9)***" and bracketing and striking through "(7)";

On page 6, at the beginning of line 10, by inserting "***(10)***" and bracketing and striking through "(8)";

On page 6, at the beginning of line 12, by inserting "***(11)***" and bracketing and striking through "(9)";

On page 6, at the beginning of line 13, by inserting "***(12)***" and bracketing and striking through "(10)";

On page 6, at the beginning of line 20, by inserting "***(13)***" and bracketing and striking through "(11)";

On page 6, line 21, after "for" by deleting "***prevention***";

On page 6 line 23, after "***prevention***" by deleting "***and education***";

On page 6, at the beginning of line 24, by inserting "***(14)***" and bracketing and striking through "(12)";

On page 6, line 25, after "prevention" by placing an opening bracket before "and" and striking through "and", by deleting "***education***", and by removing the opening bracket before "treatment";

On page 6, at the beginning of line 26, by inserting "***(15)***" and bracketing and striking through "(13)";

On page 6, line 27, after "***prevention***" by deleting "***and education***";

On page 7, at the beginning of line 1, by inserting "***(16)***" and bracketing and striking through "(14)";

On page 7, at the beginning of line 5, by inserting "***(17)***" and bracketing and striking through "(15)";

On page 7, at the beginning of line 11, by inserting "***(18)***" and bracketing and striking through "(16)";

On page 7, at the beginning of line 18, by inserting "***(19)***" and bracketing and striking through "(17)";

On page 7, at the beginning of line 23, by inserting "***(20)***" and bracketing and striking through "(18)";

On page 7, at the beginning of line 27, by inserting "***(21)***" and bracketing and striking through "(19)";

On page 8, by deleting all text on line 4 through line 6;

On page 8, line 7, by deleting "***21***" and inserting "***22***" in lieu thereof;

On page 8, line 9, by deleting "***22***" and inserting "***23***" in lieu thereof;

On page 8, line 23, after the second use of "prevention" by deleting "***and education***";

On page 8, line 25 and 26, after "***prevention***" by deleting "***and education programs***" and inserting "***strategies***" in lieu thereof;

On page 8, lines 26 and 27, after "***prevention***" by deleting "***and education***";

On page 8, line 27, after "programs" by inserting "***and strategies***";

On page 9, line 1, after "***prevention***" by deleting "***and education programs***" and by placing a closing bracket after the word "service" and by removing the closing bracket and strikethroughs from the word "providers";

On page 9, line 22, by removing all new text through line 24;

On page 9, line 24, by removing brackets and strikethroughs from the word "promote";

On page 9, line 25, after "***prevention***" by deleting "***and education***";

On page 10, between lines 6 and 7, by inserting the following:

"***(5) To carry out the provisions of this section related to substance abuse prevention strategies, the local boards shall consult in their respective areas with the regional planning councils established under KRS 210.506.***";

On page 13, line 6, after "system", by inserting "***for promoting mental health and treating mental illness, alcohol and other drug disorders, and dual diagnoses,***";

On page 14, line 5, before "services" by inserting "***treatment***";

On page 14, line 7, after "***for***" by inserting "***promoting mental health,***";

On page 14, line 7, after "***awareness***", by inserting "***,***";

On page 14, line 14, before "needs" by inserting "***treatment***";

On page 15, line 6, after "***Services***" by deleting "***and***", inserting "***,***" in lieu thereof, and after "***commission***" by inserting "***, and all members of the commission***";

On page 15, line 13, after "*provision of*" by deleting "*prevention and*" and inserting in lieu thereof "*programs promoting mental health and for* ";

On page 15, line 14, after "*mental*" by deleting "*health*" and inserting "*illness*" in lieu thereof;

On page 16, line 12, before "*services*" by inserting "*treatment*";

On page 16, line 24, after "*professional*" by inserting "*treatment*";

On page 17, line 16, after "and" by inserting "*mental health*";

On page 17, by deleting all new text on lines 20 through 24;

On page 18, line 11, after "*KRS 12.334*" by inserting the following:

"*; and*

(h) To carry out the provisions of the section related to substance abuse prevention strategies, the regional planning councils shall consult the local boards in their areas established by KRS 12.334";

On page 20, line 5, after "*any*" by inserting "*substance abuse treatment*"; and

On page 22, line 2, after "*KY-ASAP*" by inserting "*and all other members of the board*".

Floor Amendment No. 3 Title to **SB 196**, by Representative Barrows:

By amending the title to read as follows: "AN ACT relating to medical matters."

Floor Amendment No. 3 to the Committee Substitute to **HB 768**, by Representative S. Lee:

On page 2, by deleting lines 14 and 15 in their entirety;

On page 2, line 16, by deleting "*(8)*" and inserting "*(7)*" in lieu thereof;

On page 2, line 19, by deleting "*(9)*" and inserting "*(8)*" in lieu thereof;

On page 2, line 22, by deleting "*(10)*" and inserting "*(9)*" in lieu thereof;

On page 2, line 27, by deleting "*(11)*" and inserting "*(10)*" in lieu thereof;

On page 3, between lines 6 and 7, by inserting the following new section:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

The General Assembly provides that nonstate supported financial assistance to Kentucky's horse racing and breeding industry and financial assistance for the many human, social, and other governmental needs that remain unfunded because of the state budget shortfall shall be met through the generation of new revenues by the operation of electronic gaming devices at licensed racetracks. The General Assembly finds and declares that promoting excellence in racing through higher purses for horsemen, renovation, and the modernization of the state's aging racetracks, meeting the unmet needs of the young, poor, elderly, and sick in the Commonwealth, and boosting the state's tax base by creating new jobs and expanding tourism are of the utmost importance and these purposes shall be further realized by requiring that all racetracks on which electronic gaming devices are located allow:

(1) Persons sixteen (16) years of age or older to drink alcoholic beverages;

(2) Persons fourteen (14) years of age or older to smoke or partake of cigarettes and other tobacco products; and

(3) Persons twelve (12) years of age or older to play electronic gaming devices."; and

Renumber the following sections accordingly.

On page 73, line 4, by deleting "*twenty-one (21)*"and inserting "*twelve (12)*" in lieu thereof;

On page 74, line 25, by deleting "*twenty-one (21)*"and inserting "*twelve (12)*" in lieu thereof; and

On page 75, lines 3 and 4, by deleting "*twenty-one (21)*" and inserting "*twelve (12)*" in lieu thereof.

Floor Amendment No. 4 to the Committee Substitute to **HB 768**, by Representative S. Lee:

On page 56, line 23, by deleting "*(f)*" and inserting "*(g)*" in lieu thereof;

On page 59 , line 19, after "*(f)*" by inserting the following:

" *After payment of the costs and expenses described in paragraph (c) of this subsection, five million dollars ($5,000,000) of the annual gaming income shall be disbursed to the Kentucky Department of Education to provide compulsive gaming classes for all students in both the eighth and twelfth grades in the public schools. The classes shall be mandatory for all students in those grades and shall be designed to protect Kentuckians from the proliferation of gaming and allow them to make informed decisions on whether to participate in gaming. The Kentucky Department of Education shall establish the curricula to be used and shall seek the* *assistance of parents, teachers, and mental health professionals in developing the curricula. The curriculum shall be age-appropriate and at a minimum, shall include an analysis of the costs and benefits of gaming, including any social costs, the warning signs for identifying problem gamblers, the emotional and pathological makeup of the problem gambler, and the forms of gaming more likely to lead to addiction if a person is predisposed to gaming or has a propensity to gamble.*

(g)"; and

On page 59, line 21, by deleting "*(e)*" and inserting "*(f)*" in lieu thereof.

Floor Amendment No. 5 to the Committee Substitute to **HB 768**, by Representative S. Lee:

On page 1, line 14, after "*exist;*" by deleting "*and*"; and

On page 1, line 18, after "*KRS Chapter 154A*" by deleting "*.*" and inserting "*; and*" in lieu thereof; and

On page 1, between lines 18 and 19, by inserting the following new paragraph:

"*(d) Allocate moneys generated for the state by the operation of electronic gaming devices by licensed racetracks to new and existing programs meeting the needs of the young, poor, elderly, and sick within this Commonwealth, which remain unfunded or underfunded due to the state budget shortfall.*" and

On page 73, between lines 11 and 12, by inserting the following new subsections:

"*(3) No person who receives assistance from a program meeting the needs of the young, poor, elderly, or sick which is funded, in whole or in part, by state revenues, or the parent or legal guardian of such person shall:*

(a) Play, be allowed to play, place wagers, or collect winnings, whether personally or through an agent, from any electronic gaming devices authorized under this chapter; or

(b) Loiter in areas where electronic gaming devices are located.

(4) A person applying for assistance from state-funded programs for the young, poor, elderly, or sick shall, as a condition of receiving the assistance, agree to abide by the prohibition contained in subsection (3) of this section. A finding of a violation of subsection (3) of this section in an administrative hearing conducted in accordance with KRS Chapter 13B shall result in the immediate termination of the violator's state assistance."

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 819, Representatives C. Belcher and Damron

HB 839, Representative Damron

HCR 129, Representative Denham.

HCR 244, , Representative Gooch

Announcements

The following meetings were announced:

Labor and Industry: Tuesday, March 19, 2002, noon, Room 125

State Government: no meeting, Tuesday, March 19, 2002, noon

Appropriations and Revenue: Tuesday, March 19, 2002, 10:00 a.m.

Natural Resources and Environment: Tuesday, March 19, 2002, Room 131

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m. on Tuesday, March 19, 2002.

The motion that the House adjourn until 2:00 p.m., Tuesday, March 19, 2002, was adopted by voice vote.

TUESDAY, MARCH 19, 2002

FORTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Byron Black, 17th St. Christian Church, Corbin, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of Monday, March 18, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 163, SB 165, SB 257, SB 292,** and **HB 166**. (Time: 2:15 p.m.)

Representative Graham moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Graham moved the adoption of the following **Legislative Citation No. 91**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Evan Stewart and congratulates this remarkably talented young man, a sophomore at Western Hills High School, for his outstanding performance during the recent nationally televised Jeopardy Teen Tournament. One of fifteen students selected nationwide and the only student from Kentucky, Evan advanced to the semi-finals. As a captain of the WHHS Quick Recall Academic Team, Evan Stewart has had a wealth of experience in academic competitions, participating as a member of the 1997 WLEX-TV In the Know Elementary Division State Championship team from Collins Lane Elementary; winning numerous district and regional academic written assessments since first competing as a fourth grade student in the Governor's Cup Competition, where he twice finished in the top ten as a middle school student and, this year, qualified for state competition in Social Studies. The members of this honorable body are delighted to join Representative Gippy Graham in commending Evan Stewart for bringing honor and acclaim to his family, community and Commonwealth as a result of his dedication to academic excellence and in extending best wishes for his continued success and good fortune. Done in Frankfort, Kentucky, this nineteenth day of March, in the year two thousand and two.

Legislative Citation No. 91 was adopted without objection.

Representative Westrom moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Westrom moved the adoption of the following **Legislative Citation No. 92**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the members of the Kentucky State Police who have generously and graciously lent their vital and reassuring presence to the proceedings of the Regular Session of the 2002 Kentucky General Assembly, thereby augmenting the safety, dignity and peace of mind of the members of the legislature and the citizens of this Commonwealth who have participated in this complex and challenging process. The professionalism, courtesy and dedication demonstrated by these members of the Commonwealth's "Thin Grey Line" in performance of their momentous duties are truly worthy of the highest praise and regard of those for whom they have labored. The members of the Kentucky House of Representatives are honored to join Representative Susan Westrom in expressing sentiments of sincere gratitude, recognition and admiration to these courageous public servants for their vital contributions and in extending best wishes for their continued success and good fortune. Done in Frankfort, Kentucky, this nineteenth day of March, in the year two thousand and two.

Legislative Citation No. 92 was adopted without objection.

Representative Westrom moved that a call of the roll be taken to show co-sponsors of **Legislative Citation No. 92**.

On the roll call the vote was: Yeas 96 (see March 19, 2002 roll call to show co-sponsors on **Legislative Citation No. 92** - Appendix)

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **SJR 153**

Education: **SB 207**

Health and Welfare: **SB 289, SCR 185**

Judiciary: **SB 246, 260, 262, 263, 291**

Licensing and Occupations: **SB 232, 236**

State Government: **SB 271**

Transportation: **SJR 156**

Report of Committees

The Committee on Rules reported that **SB 125** has been posted for passage in the Orders of the Day for March 20, 2002.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Transportation: **SB 238, SJR 109**

Judiciary: **SB 80, SB 119, SB 220, SB 227, SB 222**

Report of Committees

The Committee on Natural Resources and Environment reported **HCR 244** and **SCR 49** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 244, A CONCURRENT RESOLUTION directing the Interim Joint Committee on Agriculture and Natural Resources to study issues concerning the competitiveness of Kentucky coal in the generation of electricity.

WHEREAS, the importance of coal to the economy of the Commonwealth cannot be overstated and the importance of the electric generation market to the coal industry is similarly vital; and

WHEREAS, the market share for Kentucky coal is falling in the electricity generation sector; and

WHEREAS, the mechanism and factors that regulate and control that market may contribute to the declining market share;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Interim Joint Committee on Agriculture and Natural Resources is directed to conduct a study of the market forces which control the purchase of coal in the electric generation industry and report its findings to the Legislative Research Commission.

Section 2. The study shall include but not be limited to the following subjects:

(1) The allocation method by which nitrogen oxide (NOx) emission allowances are distributed to existing and new sources;

(2) The role of the Public Service Commission in the fuel purchasing and ratemaking process and the public policy which underlies that regulatory function. Specifically, the study shall examine the full effect of the awarding of coal contracts to out-of-state competitors on tax revenues, jobs, wages, benefits, and environmental compliance costs; and

(3) The factors which hamper the ability of Kentucky coal to be competitive against foreign coal and coal from other states;

Section 3. The report shall include recommendations for legislative action and shall be due on or before December 1, 2002.

Section 4. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

SCR 49, A CONCURRENT RESOLUTION supporting the Kentucky Department of Fish and Wildlife Resource's efforts to gain the cooperation of neighboring states in managing Kentucky's "heritage wildlife," the magnificent elk.

WHEREAS, Kentucky's native elk herd last roamed the hills of Kentucky during the time of the Civil War; and

WHEREAS, in December 1997 the Kentucky Department of Fish and Wildlife Resources began a carefully planned and executed reintroduction of elk to their historic Kentucky range; and

WHEREAS, the department's efforts have resulted in a herd that today numbers 1,400 elk of what may be described as Kentucky's "heritage wildlife" because the reintroduction is filling eastern Kentucky's hills with a wildlife bounty unknown for over 150 years; and

WHEREAS, the department successfully educated Kentucky's local government officials, farmers, hunters, tourism specialists, and wildlife enthusiasts of the challenges arising from the reintroduction and the department's preparations to meet those challenges; and

WHEREAS, the department's educational efforts led to understanding and acceptance of the elk thus making possible the economic benefits now coming to fruition in eastern Kentucky; and

WHEREAS, with the elk herd grown to significant size, now is the time to work with Kentucky's neighboring states toward understanding and acceptance of the reintroduction plan so that the economic benefits flowing from the herd can be spread throughout the region;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The efforts of the Kentucky Department of Fish and Wildlife Resources to inform neighboring states about Kentucky's elk reintroduction program and to gain cooperation in managing the herd is supported and encouraged. The elk reintroduction success has been built upon educating Kentuckians that the released elk are from disease-free wild herds; that site selection for the release minimizes potential crop damage; that disease transfer between the elk herd and the deer population would be carefully monitored; and that development of the herd would lead to greatly enhanced wildlife hunting and viewing opportunities and increased tourism in eastern Kentucky. A similar educational effort in our neighboring states can overcome misconceptions and fears engendered by Kentucky elk colonizing or temporarily migrating to bordering states. With greater knowledge of the department's reintroduction program, surrounding states will realize that they too can benefit from the presence of this magnificent animal and the entire region surrounding eastern Kentucky will be economically strengthened from Kentucky's "heritage wildlife."

The Committee on Labor and Industry reported **HCR 130** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 130, A CONCURRENT RESOLUTION urging the United States Congress to address the problem of illegal immigration.

WHEREAS, the events of September 11, 2001, have raised concerns about the identity of foreign nationals residing in the United States; and

WHEREAS, undocumented or illegal foreign nationals are unable to obtain Social Security numbers, drivers' licenses, or other documents which could be used in identifying those individuals; and

WHEREAS, it is estimated that there are currently upwards of 60,000 undocumented or illegal foreign nationals in Kentucky; and

WHEREAS, a number of undocumented foreign nationals possess skills essential to domestic employers in the health care, agriculture, computer, and equine industries, among others; and

WHEREAS, Kentucky employers are often unable to employ sufficient numbers of U.S. workers to fill these essential positions; and

WHEREAS, the Federal Immigration and Nationality Act, as amended, provides extremely limited alternatives by which employers in these industries could sponsor undocumented foreign nationals for resident alien status based upon employment in these essential positions; and

WHEREAS, the existing non-immigrant visa categories contained in the Federal Immigration and Nationality Act which permit the employment of foreign nationals to fill positions are cumbersome, unwieldy, lengthy, and too restrictive;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The United States Congress should enact legislation to amend the Immigration and Nationality Act (8 U.S.C. secs. 1101, et seq.) to create a guest worker program that would enable undocumented foreign nationals to obtain a non-immigrant visa status for up to twenty-four (24) months, based upon offers of employment in industries such as health care, agriculture, equine, and computer, which have been designated by the United States Department of Labor as having shortages of U.S. workers available to fill specific types of positions requiring essential skills and experience. Such non-immigrant status would be extendible based upon a continuing demonstrated need by an employer and would be available to both undocumented workers presently in the United States and foreign nationals residing abroad with existing offers of employment from affected industries.

Section 2. The Clerk of the House is directed to transmit a copy of this Resolution to each member of the Kentucky delegation to the United States Congress.

The Committee on Health and Welfare reported **SB 55,** with Committee Substitute and Committee Amendment attached thereto, **SB 130,** and **SB 203,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 55, AN ACT relating to abandoned infants, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.6526 is amended to read as follows:

(1) The Kentucky Board of Emergency Medical Services may hire a coordinator for the Emergency Medical Services for Children Program and other positions for which funding is provided by the General Assembly or through any other sources, including gifts, grants, or federal funds.

(2) The coordinator shall, subject to the direction of the Kentucky Board of Emergency Medical Services:

(a) Implement and oversee the Emergency Medical Services for Children Program described in this section; and

(b) Serve as liaison for collaboration and coordination between the Emergency Medical Services for Children Program, the Kentucky Board of Emergency Medical Services, and other public and private organizations, the state traffic safety office, the maternal and child health program, the Medicaid department, *the Department for Community Based Services of the Cabinet for Families and Children,* the state and local child fatality review and response teams, state and local professional organizations, private sector voluntary organizations, and consumer and community representatives.

(3) The Emergency Medical Services for Children Program may include, but not be limited to, the establishment of the following:

(a) Guidelines for necessary out-of-hospital medical service equipment;

(b) Guidelines and protocols for out-of-hospital pediatric emergency medical services;

(c) Assistance in the development and provision of professional education programs for emergency medical services personnel in the emergency care of infants and children;

(d) Coordination and cooperation between the Emergency Medical Services for Children Program and other public and private organizations interested or involved in emergency care for children, including those persons and organizations identified in subsection (2)(b) of this section; and

(e) 1. Guidelines and protocols for initial stabilization, treatment, and transportation regarding newborn infants placed with emergency medical services providers that include methods to preserve the confidentiality of a parent who places a newborn infant in the care of any emergency medical services provider in accordance with Section 4 of this Act and to provide voluntary informational materials required by Section 6 of this Act.

2. As used in this paragraph, "newborn infant" means an infant who is medically determined to be less than seventy-two (72) hours old.

(4)[~~(e)~~]The scope of activities carried out by the Emergency Medical Services for Children Program shall be commensurate with the availability of funds.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "newborn infant" means an infant who is medically determined to be less than seventy-two (72) hours old.

(2) Any emergency medical services provider accepting physical custody of a newborn infant in accordance with Section 4 of this Act shall have implied consent to any and all appropriate medical treatment.

(3) Notwithstanding any provision of law to the contrary, the identity of a person placing a newborn infant with an emergency medical services provider shall be confidential.

(4) The provisions of subsection (3) of this section shall not apply when indicators of child physical abuse or child neglect are present.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "newborn infant" means an infant who is medically determined to be less than seventy-two (72) hours old.

(2) Every hospital of this state that offers emergency services shall admit and provide all necessary medical care, diagnostic tests, and medical treatment to any newborn infant brought to the hospital when the identity of the parents is unknown. Any person performing medical care, diagnostic testing, or medical treatment shall be immune from criminal or civil liability for having performed the act. Nothing in this subsection shall limit liability for negligence.

(3) Any person or parent, other than an emergency medical services provider, a police officer, or a firefighter acting in the course of his or her official duties, who leaves a newborn infant at an emergency room, or brings a newborn infant to an emergency room and expresses an intent to leave the infant and not return, shall have the right to remain anonymous and to leave at any time, and shall not be pursued or followed. The physician shall consider these actions as implied consent for treatment.

(4) Upon admittance, the physician or hospital administrator shall immediately contact the local office of the Department for Community Based Services. The Department for Community Based Services shall immediately seek an emergency custody order in accordance with Section 5 of this Act.

(5) Every emergency room shall make available materials to gather health and medical information concerning the infant and the parents. The materials shall be offered to the person leaving the newborn infant and it shall be clearly stated that acceptance is completely voluntary and completion of the materials may be done anonymously.

(6) The provisions of subsection (3) of this section shall not apply when indicators of child physical abuse or child neglect are present.

SECTION 4. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "newborn infant" means an infant who is medically determined to be less than seventy-two (72) hours old.

(2) A parent who places a newborn infant with an emergency medical services provider, police station, fire station, or hospital and expresses no intent to return for the infant shall have the right to remain anonymous and not be pursued and shall not be considered to have abandoned or endangered the newborn infant under KRS Chapters 508 and 530.

(3) Any emergency medical services provider, police officer, or firefighter who accepts physical custody of a newborn infant in accordance with this section shall immediately arrange for the infant to be taken to the nearest hospital emergency room and shall have implied consent to any and all appropriate medical treatment.

(4) By placing a newborn infant in the manner described in this section, the parent:

(a) Waives the right to notification required by subsequent court proceedings conducted under KRS Chapter 620 until such time as a claim of parental rights is made; and

(b) Waives legal standing to make a claim of action against any person who accepts physical custody of the newborn infant.

(5) The provisions of subsection (2) of this section shall not apply when indicators of child physical abuse or child neglect are present.

SECTION 5. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "newborn infant" who is medically determined to be less than seventy-two (72) hours old.

(2) Upon notice from any emergency medical services provider or hospital staff that a newborn infant has been abandoned at a hospital, the cabinet shall immediately seek an order for emergency custody of the infant.

(a) No child protective services investigation or assessment shall be initiated regarding the abandonment of an infant in accordance with Section 4 of this Act. The provisions of this subsection shall not apply when indicators of child physical abuse or child neglect are present.

(b) Upon the infant's release from the hospital, the cabinet shall place the child in a foster home approved by the cabinet to provide concurrent planning placement services. As used in this paragraph, "concurrent planning placement services" means the foster family shall work with the cabinet on reunification with the birth family, if known, and shall seek to adopt the infant if reunification cannot be accomplished.

(3) At the temporary removal hearing required by KRS 620.080, if the court places temporary custody with the cabinet, the custody order shall remain in effect for a minimum of thirty (30) days.

(4) During the initial thirty (30) days of placement, the cabinet shall request assistance from law enforcement officials to investigate through the Missing Child Information Center established by KRS 17.450 and other national resources to ensure that the infant is not a missing child.

(5) As soon as practicable following the thirty (30) day placement period, the cabinet shall file a petition in Circuit Court seeking the involuntary termination of parental rights of the unknown parents and authority to place the child for adoption in accordance with KRS Chapter 625.

(6) If a claim of parental rights is made at any time prior to the court order issued under KRS 625.100, the Circuit Court may hold the action for involuntary termination of parental rights in abeyance for a period of time not to exceed ninety (90) days and immediately remand the case to the District Court.

(a) If a case is remanded to District Court under this subsection, an adjudicatory hearing shall be conducted as

required by KRS 620.100 within ten (10) days of the assertion of parental rights;

(b) The District Court may order genetic testing to establish maternity or paternity at the expense of the claimant;

(c) The cabinet shall conduct a child protective services investigation or assessment and home evaluation to develop recommendations for the District Court; and

(d) Further proceedings shall be conducted in accordance with KRS Chapter 620; however, a newborn infant who has been placed in accordance with Section 4 of this Act shall not be found to be a neglected child based on that act alone.

SECTION 6. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall make available standardized health, medical, and background information forms for use in gathering voluntary, nonidentifying information from a person who leaves an infant in accordance with Section 4 of this Act and as required by Sections 1 and 3 of this Act. The materials shall clearly state on each page that the information requested is designed to facilitate medical care for the infant. The material shall include information on family services, termination of parental rights, and adoption. The material shall also include:

(a) Information on the importance of medical and health information regarding the infant; and

(b) Written notification that failure to contact the Department for Community Based Services and assert a claim of parental rights within thirty (30) days of the receipt of the material shall result in the commencement of proceedings for involuntary termination of parental rights and placement of the child for adoption.

(2) The cabinet shall produce and distribute a media campaign to promote safe placement alternatives for newborn infants, the confidentiality offered to birth parents, and information regarding adoption procedures.

Section 7. To carry out the provisions of Section 6 of this Act, there is appropriated to the Cabinet for Families and Children out of the general fund the sum of $100,000 for the fiscal year 2002-2003 and $50,000 for the fiscal year 2003-2004. Funds not expended in fiscal year 2002-2003 may be carried over to fiscal year 2003-2004.

Section 8. Whereas Kentucky and the nation have experienced grief from the knowledge that newborn infants are abandoned in life-threatening situations and that some died from their abandonment; and whereas the parents of these newborn infants are under severe emotional stress; and whereas anonymity, confidentiality, and freedom from prosecution may encourage the parent to leave an infant safely and save the life of the infant, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Substitute to **SB 55** is as follows:

SB 55, AN ACT relating to abandoned infants, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.6526 is amended to read as follows:

(1) The Kentucky Board of Emergency Medical Services may hire a coordinator for the Emergency Medical Services for Children Program and other positions for which funding is provided by the General Assembly or through any other sources, including gifts, grants, or federal funds.

(2) The coordinator shall, subject to the direction of the Kentucky Board of Emergency Medical Services:

(a) Implement and oversee the Emergency Medical Services for Children Program described in this section; and

(b) Serve as liaison for collaboration and coordination between the Emergency Medical Services for Children Program, the Kentucky Board of Emergency Medical Services, and other public and private organizations, the state traffic safety office, the maternal and child health program, the Medicaid department, *the Department for Community Based Services of the Cabinet for Families and Children,* the state and local child fatality review and response teams, state and local professional organizations, private sector voluntary organizations, and consumer and community representatives.

(3) The Emergency Medical Services for Children Program may include, but not be limited to, the establishment of the following:

(a) Guidelines for necessary out-of-hospital medical service equipment;

(b) Guidelines and protocols for out-of-hospital pediatric emergency medical services;

(c) Assistance in the development and provision of professional education programs for emergency medical services personnel in the emergency care of infants and children;

(d) Coordination and cooperation between the Emergency Medical Services for Children Program and other public and private organizations interested or involved in emergency care for children, including those persons and organizations identified in subsection (2)(b) of this section; and

(e) 1. Guidelines and protocols for initial stabilization, treatment, and transportation regarding newborn infants placed with emergency medical services providers that include methods to preserve the confidentiality of a parent who places a newborn infant in the care of any emergency medical services

provider in accordance with Section 4 of this Act and to provide voluntary informational materials required by Section 6 of this Act.

2. As used in this paragraph, "newborn infant" means an infant who is medically determined to be less than seventy-two (72) hours old.

(4)[~~(e)~~]The scope of activities carried out by the Emergency Medical Services for Children Program shall be commensurate with the availability of funds.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "newborn infant" means an infant who is medically determined to be less than seventy-two (72) hours old.

(2) Any emergency medical services provider accepting physical custody of a newborn infant in accordance with Section 4 of this Act shall have implied consent to any and all appropriate medical treatment.

(3) Notwithstanding any provision of law to the contrary, the identity of a person placing a newborn infant with an emergency medical services provider shall be confidential.

(4) The provisions of subsection (3) of this section shall not apply when indicators of child physical abuse or child neglect are present.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "newborn infant" means an infant who is medically determined to be less than seventy-two (72) hours old.

(2) Every hospital of this state that offers emergency services shall admit and provide all necessary medical care, diagnostic tests, and medical treatment to any newborn infant brought to the hospital when the identity of the parents is unknown. Any person performing medical care, diagnostic testing, or medical treatment shall be immune from criminal or civil liability for having performed the act. Nothing in this subsection shall limit liability for negligence.

(3) Any person or parent, other than an emergency medical services provider, a police officer, or a firefighter acting in the course of his or her official duties, who leaves a newborn infant at an emergency room, or brings a newborn infant to an emergency room and expresses an intent to leave the infant and not return, shall have the right to remain anonymous and to leave at any time, and shall not be pursued or followed. The physician shall consider these actions as implied consent for treatment.

(4) Upon admittance, the physician or hospital administrator shall immediately contact the local office of the Department for Community Based Services. The Department for Community Based Services shall immediately seek an emergency custody order in accordance with Section 5 of this Act.

(5) Every emergency room shall make available materials to gather health and medical information concerning the infant and the parents. The materials shall be offered to the person leaving the newborn infant and it shall be clearly stated that acceptance is completely voluntary and completion of the materials may be done anonymously.

(6) The provisions of subsection (3) of this section shall not apply when indicators of child physical abuse or child neglect are present.

SECTION 4. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "newborn infant" means an infant who is medically determined to be less than seventy-two (72) hours old.

(2) A parent who places a newborn infant with an emergency medical services provider, police station, fire station, or hospital and expresses no intent to return for the infant shall have the right to remain anonymous and not be pursued and shall not be considered to have abandoned or endangered the newborn infant under KRS Chapters 508 and 530.

(3) Any emergency medical services provider, police officer, or firefighter who accepts physical custody of a newborn infant in accordance with this section shall immediately arrange for the infant to be taken to the nearest hospital emergency room and shall have implied consent to any and all appropriate medical treatment.

(4) By placing a newborn infant in the manner described in this section, the parent:

(a) Waives the right to notification required by subsequent court proceedings conducted under KRS Chapter 620 until such time as a claim of parental rights is made; and

(b) Waives legal standing to make a claim of action against any person who accepts physical custody of the newborn infant.

(5) The provisions of subsection (2) of this section shall not apply when indicators of child physical abuse or child neglect are present.

SECTION 5. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "newborn infant" who is medically determined to be less than seventy-two (72) hours old.

(2) Upon notice from any emergency medical services provider or hospital staff that a newborn infant has been abandoned at a hospital, the cabinet shall immediately seek an order for emergency custody of the infant.

(a) No child protective services investigation or assessment shall be initiated regarding the abandonment of an infant in accordance with Section 4 of this Act. The provisions of this subsection shall not apply when indicators of child physical abuse or child neglect are present.

(b) Upon the infant's release from the hospital, the cabinet shall place the child in a foster home approved by the cabinet to provide concurrent planning placement services. As used in this paragraph, "concurrent planning placement services" means the foster family shall work with the cabinet on reunification with the birth family, if known, and shall seek to adopt the infant if reunification cannot be accomplished.

(3) At the temporary removal hearing required by KRS 620.080, if the court places temporary custody with the cabinet, the custody order shall remain in effect for a minimum of thirty (30) days.

(4) During the initial thirty (30) days of placement, the cabinet shall request assistance from law enforcement officials to investigate through the Missing Child Information Center established by KRS 17.450 and other national resources to ensure that the infant is not a missing child.

(5) As soon as practicable following the thirty (30) day placement period, the cabinet shall file a petition in Circuit Court seeking the involuntary termination of parental rights of the unknown parents and authority to place the child for adoption in accordance with KRS Chapter 625.

(6) If a claim of parental rights is made at any time prior to the court order issued under KRS 625.100, the Circuit Court may hold the action for involuntary termination of parental rights in abeyance for a period of time not to exceed ninety (90) days and immediately remand the case to the District Court.

(a) If a case is remanded to District Court under this subsection, an adjudicatory hearing shall be conducted as required by KRS 620.100 within ten (10) days of the assertion of parental rights;

(b) The District Court may order genetic testing to establish maternity or paternity at the expense of the claimant;

(c) The cabinet shall conduct a child protective services investigation or assessment and home evaluation to develop recommendations for the District Court; and

(d) Further proceedings shall be conducted in accordance with KRS Chapter 620; however, a newborn infant who has been placed in accordance with Section 4 of this Act shall not be found to be a neglected child based on that act alone.

SECTION 6. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall make available standardized health, medical, and background information forms for use in gathering voluntary, nonidentifying information from a person who leaves an infant in accordance with Section 4 of this Act and as required by Sections 1 and 3 of this Act. The materials shall clearly state on each page that the information requested is designed to facilitate medical care for the infant. The material shall include information on family services, termination of parental rights, and adoption. The material shall also include:

(a) Information on the importance of medical and health information regarding the infant; and

(b) Written notification that failure to contact the Department for Community Based Services and assert a claim of parental rights within thirty (30) days of the receipt of the material shall result in the commencement of proceedings for involuntary termination of parental rights and placement of the child for adoption.

(2) Subject to available funding, the cabinet shall produce and distribute a media campaign to promote safe placement alternatives for newborn infants, the confidentiality offered to birth parents, and information regarding adoption procedures.

Section 7. Whereas Kentucky and the nation have experienced grief from the knowledge that newborn infants are abandoned in life-threatening situations and that some died from their abandonment; and whereas the parents of these newborn infants are under severe emotional stress; and whereas anonymity, confidentiality, and freedom from prosecution may encourage the parent to leave an infant safely and save the life of the infant, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Amendment No. 1 Title to **SB 55** is as follows:

Amend the title to read as follows: "AN ACT relating to abandoned infants and declaring an emergency.".

SB 130, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 214.640 is amended to read as follows:

(1) The Cabinet for Health Services may create, to the extent permitted by available staffing and funding, an HIV and AIDS Advisory Council to consist of no more than *thirty (30)*[~~twenty-five (25)~~] members, for the purpose of advising the cabinet on the formulation of HIV and AIDS policy. Membership on the committee shall be drawn from the following:

(a) The commissioner of the Department for Public Health;

(b) The commissioner of the Department for Medicaid Services;

(c) Representatives of other state agencies or boards that provide services to clients of HIV or AIDS services or that provide education to professionals who come into contact with HIV or AIDS clients, as designated by the Governor;

(d) Physicians representing different geographic regions of the state;

(e) HIV or AIDS clients; and

(f) Representatives of community-based organizations from different geographic regions of the state.

To the extent possible, membership of the council shall reflect the epidemiology of the HIV/AIDS epidemic.

(2) The members designated under paragraphs (a) to (c) of subsection (1) of this section shall serve for the duration of service in their offices, subject to removal for cause by the Governor. These members shall not be paid for attending council meetings but may receive reimbursement of expenses.

(3) The members serving under paragraphs (d) to (f) of subsection (1) of this section shall be appointed by the cabinet from lists submitted by the appropriate licensing entities of the profession involved, by the cabinet, and by community-based organizations. These members shall serve for a term of four (4) years and may be reappointed, but the members shall not serve for more than two (2) consecutive terms.

(4) The chair of the council shall be elected from the membership serving under paragraphs (d) to (f) of subsection (1) of this section.

(5) The functions of the council shall include, but shall not be limited to:

(a) Reporting its findings to the cabinet and monitoring the responsiveness of the cabinet to insure that the council's recommendations are being followed;

(b) Exploring the feasibility, design, cost, and necessary funding for centers of excellence to deliver comprehensive, coordinated medical and related care to all people with HIV or AIDS in the Commonwealth based on national clinical guidelines and practice standards. Coordinated medical care shall include, but not be limited to access to:

1. AIDS primary care;
2. Drug therapy;
3. Specialists' care, including psychiatric and other mental health providers;
4. Case management services;
5. Dental care;
6. Chemical dependency treatment; and
7. Basic needs, including but not limited to, housing and food;

(c) Assessing resources and gaps in services provided for persons with HIV or AIDS;

(d) Subdividing into necessary subcommittees. One (1) subcommittee may be formed that will consist solely of persons living with HIV or AIDS. This subcommittee shall make those recommendations as it deems necessary to the council, including recommendations on effective peer-based prevention programs; and

(e) Reporting its findings and recommendations to the General Assembly and the Interim Joint Committee on Health and Welfare by September 1, 2001, and by September 1 of each year thereafter.

Section 2. The General Assembly confirms Executive Order 2001-542 dated May 3, 2001, by which additional members are added to the HIV/AIDS Advisory Council to the extent that it is not otherwise confirmed by this Act.

SB 203, AN ACT relating to long-term care facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.557 is amended to read as follows:

Citations issued pursuant to KRS 216.537 to 216.590 shall be classified according to the nature of the violation as follows:

(1) Type "A" violation means a violation by a long-term care facility of the regulation, standards, and requirements as set forth by the cabinet pursuant to KRS 216.563 or the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long-term care facility under Title 18 or 19 of the Social Security Act, which presents an imminent danger to any resident of a long-term care facility and creates substantial risk that death or serious mental or physical harm to a resident will occur. A Type A violation shall be abated or eliminated immediately, unless a fixed period of time not to exceed ten (10) days, as determined by the cabinet, is required for correction. A Type A violation is subject to a civil penalty in an amount not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each and every violation. ***A facility that is assessed a civil monetary penalty in accordance with applicable federal laws and regulations under Title 18 or 19 of the Federal Social Security Act shall not be subject to the civil monetary penalty established in this subsection for the same violation.***

(2) Type "B" violation means a violation by a long-term care facility of the regulations, standards, and requirements as set

forth by the cabinet pursuant to KRS 216.563 or the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long-term care facility under Title 18 or 19 of the Social Security Act, which presents a direct or immediate relationship to the health, safety, or security of any resident, but which does not create an imminent danger. A Type B violation is subject to a civil penalty in an amount not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each and every violation. A citation for a Type B violation shall specify the time within which the violation is required to be corrected as approved or determined by the cabinet. If a Type B violation is corrected within the time specified, no civil penalty shall be imposed. ***A facility that is assessed a civil monetary penalty in accordance with applicable federal laws and regulations under Title 18 or 19 of the Federal Social Security Act shall not be subject to the civil monetary penalty established in this subsection for the same violation.***

Section 2. KRS 216.560 is amended to read as follows:

(1) If a licensee has failed to correct a Type A violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of five hundred dollars ($500) for each day that the deficiency continues beyond the date specified for correction. Application for an extension of time, not to exceed ten (10) days, may be granted by the cabinet upon a showing by the licensee that adequate arrangements have been made to protect the health and safety of the residents. ***A facility that is assessed a civil monetary penalty in accordance with applicable federal laws and regulations under Title 18 or 19 of the Federal Social Security Act shall not be subject to the civil monetary penalty established in this subsection for the same violation.***

(2) If a licensee has failed to correct a Type B violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of two hundred dollars ($200) for each day that the deficiency continues beyond the date specified for correction. Application for an extension of time, not to exceed (10) days, may be granted by the cabinet upon a showing by the licensee that adequate arrangements have been made to protect the health and safety of the residents. ***A facility that is assessed a civil monetary penalty in accordance with applicable federal laws and regulations under Title 18 or 19 of the Federal Social Security Act shall not be subject to the civil monetary penalty established in this subsection for the same violation.***

(3) The civil penalties authorized by KRS 216.537 to 216.590 shall be trebled when a licensee has received a citation for violating a statute or regulation for which it has received a citation[~~ and penalty~~] during the previous twelve (12) months.

(4) Payment of penalties shall not be made from moneys used for direct patient care nor shall the payment of penalties be a reimbursable cost under Medicaid or Medicare.

(5) KRS 216B.990(3) shall not apply to the offenses defined herein.

(6) All administrative fines collected by the cabinet pursuant to KRS 216.537 to 216.590 shall be deposited in the Kentucky ***long-term care fund***[~~nursing incentive scholarship fund~~], which is hereby created, and the balance of that fund shall not lapse at the end of the fiscal year to the general fund.

Section 3. KRS 216B.131 is amended to read as follows:

(1) All moneys derived from applicants seeking certificates of need or licenses or from any other sources connected with this chapter shall be promptly paid over to the State Treasurer, who shall deposit such moneys in a special fund which, in addition to appropriated funds, shall be used to carry out the purposes of this chapter and for no other purpose.

(2) ***(a)*** Any fine imposed for the violation of this chapter shall, when collected, be paid into the Kentucky ***long-term care fund***[~~nursing incentive scholarship fund~~].

(b) The Office of Inspector General shall promulgate an administrative regulation in accordance with KRS Chapter 13A concerning the administration of the long-term care fund that shall be consistent with federal requirements for the use of fines collected under this section.

The Committee Substitute to **SB 203** is as follows:

SB 203, AN ACT relating to long-term care facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.557 is amended to read as follows:

Citations issued pursuant to KRS 216.537 to 216.590 shall be classified according to the nature of the violation as follows:

(1) Type "A" violation means a violation by a long-term care facility of the regulation, standards, and requirements as set forth by the cabinet pursuant to KRS 216.563 or the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long-term care facility under Title 18 or 19 of the Social Security Act, which presents an imminent danger to any resident of a long-term care facility and creates substantial risk that death or serious mental or physical harm to a resident will occur. A Type A violation shall be abated or eliminated immediately, unless a fixed period of time not to exceed ten (10) days, as determined by the cabinet, is required for correction. A Type A violation is subject to a civil penalty in an amount not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each and every violation. ***A facility that is assessed a civil monetary penalty in accordance with applicable federal laws and regulations under Title 18 or 19 of the Federal Social Security Act shall not be subject to***

the civil monetary penalty established in this subsection for the same violation.

(2) Type "B" violation means a violation by a long-term care facility of the regulations, standards, and requirements as set forth by the cabinet pursuant to KRS 216.563 or the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long-term care facility under Title 18 or 19 of the Social Security Act, which presents a direct or immediate relationship to the health, safety, or security of any resident, but which does not create an imminent danger. A Type B violation is subject to a civil penalty in an amount not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each and every violation. A citation for a Type B violation shall specify the time within which the violation is required to be corrected as approved or determined by the cabinet. If a Type B violation is corrected within the time specified, no civil penalty shall be imposed. ***A facility that is assessed a civil monetary penalty in accordance with applicable federal laws and regulations under Title 18 or 19 of the Federal Social Security Act shall not be subject to the civil monetary penalty established in this subsection for the same violation.***

Section 2. KRS 216.560 is amended to read as follows:

(1) If a licensee has failed to correct a Type A violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of five hundred dollars ($500) for each day that the deficiency continues beyond the date specified for correction. Application for an extension of time, not to exceed ten (10) days, may be granted by the cabinet upon a showing by the licensee that adequate arrangements have been made to protect the health and safety of the residents. ***A facility that is assessed a civil monetary penalty in accordance with applicable federal laws and regulations under Title 18 or 19 of the Federal Social Security Act shall not be subject to the civil monetary penalty established in this subsection for the same violation.***

(2) If a licensee has failed to correct a Type B violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of two hundred dollars ($200) for each day that the deficiency continues beyond the date specified for correction. Application for an extension of time, not to exceed (10) days, may be granted by the cabinet upon a showing by the licensee that adequate arrangements have been made to protect the health and safety of the residents. ***A facility that is assessed a civil monetary penalty in accordance with applicable federal laws and regulations under Title 18 or 19 of the Federal Social Security Act shall not be subject to the civil monetary penalty established in this subsection for the same violation.***

(3) The civil penalties authorized by KRS 216.537 to 216.590 shall be trebled when a licensee has received a citation for violating a statute or regulation for which it has received a citation[~~ and penalty~~] during the previous twelve (12) months.

(4) Payment of penalties shall not be made from moneys used for direct patient care nor shall the payment of penalties be a reimbursable cost under Medicaid or Medicare.

(5) KRS 216B.990(3) shall not apply to the offenses defined herein.

(6) ***(a)*** All administrative fines collected by the cabinet pursuant to KRS 216.537 to 216.590***, except for fines collected from personal care homes,*** shall be deposited in the Kentucky nursing incentive scholarship fund, which is hereby created, and the balance of that fund shall not lapse at the end of the fiscal year to the general fund.

(b) All administrative fines collected by the cabinet pursuant to KRS 216.537 to 216.590 from personal care homes shall be deposited in the Kentucky long-term care fund, which is hereby created, and the balance of that fund shall not lapse at the end of the fiscal year to the general fund.

(c) The Office of Inspector General shall promulgate an administrative regulation in accordance with KRS Chapter 13A concerning the administration of the Kentucky long-term care fund.

Section 3. KRS 216B.131 is amended to read as follows:

(1) All moneys derived from applicants seeking certificates of need or licenses or from any other sources connected with this chapter shall be promptly paid over to the State Treasurer, who shall deposit such moneys in a special fund which, in addition to appropriated funds, shall be used to carry out the purposes of this chapter and for no other purpose.

(2) Any fine imposed for the violation of this chapter shall, when collected, be paid into the Kentucky nursing incentive scholarship fund***, except that a fine collected from a personal care home or applicant seeking a personal care home shall be paid into the Kentucky long-term care fund***.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

A long-term care facility as defined in KRS 216.535, except for a personal care home, that advertises to provide special care for persons with a medical diagnosis of Alzheimer's disease or other related disorders or maintains an identifiable unit for the treatment of persons with a medical diagnosis of Alzheimer's disease or other related disorders shall provide training to all staff members in the care and handling of Alzheimer's disease or other related disorders as follows:

(1) At least eight (8) hours of orientation related to Alzheimer's disease or other related disorders to include the following:

(a) Facility policies;

(b) Etiology and treatment;

(c) Disease stages;

(d) Behavior management; and

(e) Residents' rights; and

(2) Annual continuing education of at least five (5) hours related to Alzheimer's disease or other related disorders.

Representative Nunn moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Nunn moved the adoption of the following **Legislative Citation No. 94**.

The House of Representatives of the Commonwealth of Kentucky hereby honors and commends the members and coaches of the Barren County High School Varsity Co-Ed Cheerleading Squad upon capturing the 2001-2002 Small Co-Ed National Championship title, the fifth national championship title for Barren County High School. Inasmuch as these talented athletes, under the astute tutelage of Coaches Teresa Bewley and Jamie Bewley, have demonstrated great heart, fine team spirit and exceptional athletic skill, the members of this distinguished body are delighted to join with Representative Stephen R. Nunn in applauding the efforts of the Barren County High School Varsity Co-Ed Cheerleading Squad in this worthwhile endeavor and in extending best wishes for continued success and good fortune as this team prepares to compete for the 2002-2003 Title in Orlando, Florida, on March 25, 2002. Done in Frankfort, Kentucky, this nineteenth day of March, in the year two thousand and two.

Legislative Citation No. 94 was adopted without objection.

Representative Baugh moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Baugh moved that he be recorded as voting "yea" to co-sponsor **Legislative Citation No. 92**. Agreed.

Representative Allen moved that the rules be suspended to grant floor privileges and to act upon Legislative Citations. Agreed.

Representative Allen moved the adoption of the following **Legislative Citation No. 95**.

The House of Representatives of the Commonwealth of Kentucky hereby honors and commends the members of the Oak Ridge Christian Academy Lady Warriors Basketball Teams for outstanding performance which led to these celebrated varsity and junior varsity teams winning the KCAA Varsity Regional Championship; advancing to the Final Four in the State Varsity Tournament; winning the Junior Varsity Regional Championship; and claiming Junior Varsity State Runner-Up Honors. Inasmuch as these talented young athletes, under the skilled tutelage of Coach Joey Kirby, have demonstrated outstanding determination and remarkable athletic ability, the members of this august body are honored to join Representative Woody Allen in applauding the accomplishments of these talented young athletes and in extending best wishes for future monuments of success. Done in Frankfort, Kentucky, this nineteenth day of March, in the year two thousand and two.

Legislative Citation No. 95 was adopted without objection.

Representative Allen moved the adoption of the following **Legislative Citation No. 96**.

Athletic Achievement Award-The House of Representatives of the Commonwealth of Kentucky hereby honors and commends the members of the Oak Ridge Christian Academy Warriors Basketball Teams for outstanding performance which led to these celebrated varsity and junior varsity teams winning the KCAA Varsity Regional Championship, the JV Regional Championship; and the JV State Championship, with the JV Team having a 20-0 record for the season. Inasmuch as these talented young athletes, under the skilled tutelage of Coach Roger Kirby, have demonstrated outstanding determination and remarkable athletic ability, the members of this august body are honored to join Representative Woody Allen in applauding the stellar accomplishments of these talented young athletes and in extending best wishes for future monuments of success. Done in Frankfort, Kentucky, this nineteenth day of March, in the year two thousand and two.

Legislative Citation No. 96 was adopted without objection.

Representative Stumbo moved that **HB 576** be taken from the Clerk's Desk and placed in the Orders of the Day. Agreed.

Representative Stumbo moved to suspend the rules to allow that Floor Amendment No. 1 to the Committee Substitute to **HB 867** be considered today. Agreed.

Representative Palumbo moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Palumbo moved the adoption of the following **Legislative Citation No. 98**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the 2002 National Champion Cheerleaders, the University of Kentucky Wildcat Cheerleaders upon once again winning the Universal Cheerleaders Association's National College Cheerleading Championship for NCAA Division I-A schools. Having won this prestigious title an unprecedented twelve times and holding the distinction of being both the only squad to twice win back to back championships and to win the title for eight consecutive years, this outstanding squad is, without a doubt, recognized as belonging to one of the nation's elite cheerleading programs. Providing wildly enthusiastic support of the Wildcat athletic teams, the UK cheerleaders also serve as model students in the classroom, give generously of their time to various charitable organizations and serve as public relations ambassadors of the University of Kentucky and the entire Commonwealth. The members of this honorable body are delighted to join Representative Ruth Ann Palumbo, Representative Carolyn Belcher, Representative Kathy W. Stein and Representative Susan Westrom in applauding the University of Kentucky Wildcat Cheerleading Squad for remarkable athletic accomplishments; in commending its members and coaching staff for the honor and esteem they have brought to UK and the citizens of Kentucky; and, in extending a hearty welcome as they visit the House Chambers to witness a day in the 2002 Regular Session of the Kentucky General Assembly. Done in Frankfort, Kentucky, this nineteenth day of March, in the year two thousand and two.

Legislative Citation No. 98 was adopted without objection.

Orders of the Day

SB 107, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Belcher moved the adoption of the Committee Substitute to **SB 107**. Agreed.

Representative L. Belcher moved that **SB 107**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 19, 2002, roll call on **SB 107** - Appendix.)

SB 107, by way of Committee Substitute, was passed and the title agreed to.

Representative L. Belcher moved that the vote by which **SB 107**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 112 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hall moved that **SB 112** be passed.

On the roll call the vote was: **Yeas 93, Nays 1**. (See March 19, 2002, roll call on **SB 112** - Appendix.)

SB 112 was passed and the title agreed to.

Representative Hall moved that the vote by which **SB 112** was passed be reconsidered and said motion be placed on the table. Agreed.

SJR 23 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved that **SJR 23** be adopted.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 19, 2002, roll call on **SJR 23** - Appendix.)

SJR 23 was adopted.

Representative Collins moved that the vote by which **SJR 23** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 128, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved the adoption of Committee Amendment No. 1 to **SB 128**. Agreed.

Representative Heleringer moved that **SB 128**, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 19, 2002, roll call on **SB 128** - Appendix.)

SB 128, as amended, was passed and the title agreed to.

Representative Heleringer moved that the vote by which **SB 128**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SJR 16, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved the adoption of Committee Amendment No. 1 to **SJR 16**. Agreed.

Representative Stumbo moved that **SJR 16**, as amended, be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 19, 2002, roll call on **SJR 16** - Appendix.)

SJR 16, as amended, was adopted.

Representative Stumbo moved the adoption of Committee Amendment No. 2 Title to **SJR 16**. Agreed.

SJR 39 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pullin moved that **SJR 39** be adopted.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 19, 2002, roll call on **SJR 39** - Appendix.)

SJR 39 was adopted.

Representative Pullin moved that the vote by which **SJR 39** was adopted be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 634** was delivered to the Senate and signed by the President. Delivered to the Governor on March 19, 2002, at 3:08 p.m.

Orders of the Day (Continued)

SCR 47 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **SCR 47** be adopted.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 19, 2002, roll call on **SCR 47** - Appendix.)

SCR 47 was adopted.

Representative Bruce moved that the vote by which **SCR 47** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 359, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of the Committee Substitute to **HB 359**. Agreed.

Representative Barrows moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 359**. Agreed.

Representative Barrows moved that **HB 359**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 75, Nays 15**. (See March 19, 2002, roll call on **HB 359** - Appendix.)

HB 359, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 359**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 189 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved that **HJR 189** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 19, 2002, roll call on **HJR 189** - Appendix.)

HJR 189 was adopted.

Representative Nunn moved that the vote by which **HJR 189** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 205, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved the adoption of the Committee Substitute to **HJR 205**. Agreed.

Representative Nunn moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HJR 205**. Agreed.

Representative Nunn moved that **HJR 205,** by way of Committee Substitute, as amended, be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 19, 2002, roll call on **HJR 205** - Appendix.)

HJR 205, by way of Committee Substitute, as amended, was adopted.

Representative Nunn moved that the vote by which **HJR 205,** by way of Committee Substitute, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

SJR 24, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hall moved the adoption of the Committee Substitute to **SJR 24**. Agreed.

Representative Hall moved that **SJR 24**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 99, Nays 0**. (See March 19, 2002, roll call on **SJR 24** - Appendix.)

SJR 24, by way of Committee Substitute, was adopted.

Representative Hall moved the adoption of Committee Amendment No. 1 Title to **SJR 24**. Agreed.

Representative Hall moved that the vote by which **SJR 24**, by way of Committee Substitute, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

SCR 76 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **SCR 76** be adopted.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 19, 2002, roll call on **SCR 76** - Appendix.)

SCR 76 was adopted.

Representative Burch moved that the vote by which **SCR 76** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 855, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved the adoption of the Committee Substitute to **HB 855**. Agreed.

Representative Haydon moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 855**. Agreed.

Representative Haydon moved that **HB 855**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 77, Nays 12**. (See March 19, 2002, roll call on **HB 855** - Appendix.)

HB 855, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Haydon moved that the vote by which **HB 855**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 181 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved that **HJR 181** be adopted.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 19, 2002, roll call on **HJR 181** - Appendix.)

HJR 181 was adopted.

Representative Gooch moved that the vote by which **HJR 181** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 210, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of the Committee Substitute to **HJR 210**. Agreed.

Representative Thomas moved that **HJR 210**, by way of Committee Substitue, be adopted.

On the roll call the vote was: **Yeas 99, Nays 0**. (See March 19, 2002, roll call on **HJR 210** - Appendix.)

HJR 210 was adopted.

Representative Thomas moved that the vote by which **HJR 210**, by way of Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 212 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved that **HJR 212** be adopted.

On the roll call the vote was: **Yeas 99, Nays 0**. (See March 19, 2002, roll call on **HJR 212** - Appendix.)

HJR 212 was adopted.

Representative Cherry moved that the vote by which **HJR 212** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 842, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of the Committee Substitute to **HB 842**. Agreed.

Representative Palumbo moved that **HB 842**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 4**. (See March 19, 2002, roll call on **HB 842** - Appendix.)

HB 842, by way of Committee Substitute, was passed and the title agreed to.

Representative Weaver moved the adoption of Floor Amendment No. 1 Title to **HB 842**. Agreed.

Representative Palumbo moved that the vote by which **HB 842**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 854, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Branham moved the adoption of Committee Amendment No. 1 to **HB 854**. Agreed.

Representative Gray moved the adoption of Floor Amendment No. 1 to **HB 854**. Agreed.

Representative Branham moved that **HB 854**, as amended, be passed.

On the roll call the vote was: **Yeas 85, Nays 9**. (See March 19, 2002, roll call on **HB 854** - Appendix.)

HB 854, as amended, was passed and the title agreed to.

Representative Branham moved that the vote by which **HB 854**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 226 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved that **HCR 226** be adopted.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 19, 2002, roll call on **HCR 226** - Appendix.)

HCR 226 was adopted.

Representative Thomas moved that the vote by which **HCR 226** was adopted be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 166** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:07 p.m.)

Orders of the Day (Continued)

HB 867 taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of the members elected.

Representative Treesh moved to reconsider the vote on the motion that a fiscal statement be attached to **HB 867**. Agreed.

Representative Weaver moved the adoption of Floor Amendment No. 1 to the Committee Substitute **HB 867**. Agreed.

Representative Weaver moved that **HB 867**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 19, 2002, roll call on **HB 867** - Appendix.)

HB 867, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Weaver moved that the vote by which **HB 867**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 576, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day.

Representative Thomas moved the adoption of Floor Amendment No. 5 to **HB 576**. Agreed.

Representative Stumbo moved the adoption of Floor Amendment No. 6 to **HB 576**. Agreed.

Representative Thomas moved that **HB 576**, as amended, be passed.

On the roll call the vote was: **Yeas 71, Nays 24**. (See March 19, 2002, roll call on **HB 576** - Appendix.)

HB 576, as amended, was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 576**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 57 with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence on non concurrence in Senate Amendment. Agreed.

The Senate Committee Substitute to **HB 57**, is as follows:

HB 57, AN ACT relating to licensed professional clinical counselors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 335.500 is amended to read as follows:

As used in KRS 335.500 to 335.599, unless the context requires otherwise:

(1) "Board" means the Kentucky Board of ***Licensed***[~~Certification for~~] Professional Counselors;

(2) ***"Credential holder" means any person who is regulated by the board;***

(3) "Licensed professional clinical counselor" means a credential holder who has been determined by the board to have met all qualifications set forth in subsection (1) of Section 5 of this Act to engage in the independent practice of professional counseling;

(4) "Licensed professional counselor associate" means a credential holder who has been determined by the board to have met all qualifications set forth in subsection (2) of Section 5 of this Act to engage in the practice of professional counseling under an approved clinical supervisor as authorized by the board; and

(5) "Practice of professional counseling" means professional counseling services that involve the application of mental health counseling and developmental principles, methods, and procedures, including assessment, evaluation, treatment planning, amelioration, and remediation of adjustment problems and emotional disorders, to assist individuals or groups to achieve more effective personal, social, educational, or career development and adjustment[~~"Certified professional counselor" means a person who has completed a master's or doctoral degree in counseling from an accredited educational institution, and is certified by the board;~~

~~(3) "Certified professional counselor associate" means an individual who has a minimum of four hundred (400) hours of experience under the supervision of an approved supervisor and has met the requirements for certification under KRS 335.525(1)(a) to (d);~~

~~(4) "Certificate holder" means a professional counselor who is certified under the provisions of KRS 335.500 to 335.599;~~

~~(5) "Approved supervisor" means a person who has been approved by the board to supervise and is qualified under Kentucky law as a licensed psychiatrist, licensed or certified psychologist, licensed clinical social worker, certified professional counselor, nurse with a master's degree and psychiatric certification, certified marriage and family therapist, or certified professional art therapist. The board may approve as supervisor a person from another state with a substantially equivalent certificate or license who is in good standing with the certifying or licensing state and meets, at a minimum, the requirements set out in KRS 335.525~~]; and

(6) "Relative" means a person's father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, daughter-in-law, grandparent, grandchild, stepparent, or stepchild.

Section 2. KRS 335.505 is amended to read as follows:

(1) No person shall ***engage in the practice of professional counseling or present in a way as to imply or would reasonably be deemed to imply licensure to practice professional counseling unless the person has first been issued a valid***

license[~~use the title "certified professional counselor" or hold himself out to the public using any terms, titles, or abbreviations which express or imply that he is a certified professional counselor unless the person is certified~~] by the board.

(2) Subsection (1) of this section shall not apply to any person who is licensed, certified, or registered under ***any*** other provisions of the Kentucky Revised Statutes, including, but not limited to, physicians, social workers, psychologists, nurses, professional art therapists,[~~ certified~~] marriage and family therapists, or students in accredited programs in those professions, and shall not restrict their practice, descriptions of services, or the manner in which they hold themselves out to the public.

(3) Subsection (1) of this section shall not be construed to alter, amend, or interfere with the practice of those who ***engage in***[~~render counseling services, including but not limited to,~~] employment counseling, job placement counseling, vocational rehabilitation counseling, ***victim counseling or advocacy,*** pastoral counseling based on any tenet of one's religious beliefs, or school counseling.

(4) Subsection (1) of this section shall not apply to the activities and services of a student intern or trainee in professional counseling who is pursuing a program of studies in counseling at an accredited institution of higher education, if these activities are performed under the supervision or direction of an approved supervisor and the activities are a part of the supervised program of study ***as reflected in an official transcript***, and if the person is designated a professional counselor intern or student in training.

(5) Nothing in this section shall be construed to limit the activities of a sexual assault counselor, victim advocate, or crisis response team as provided in KRE 506, or a person certified under KRS Chapter 403 to provide court-ordered domestic violence offender treatment services or a person providing services to sexual offenders under KRS 197.400 to 197.440.

Section 3. KRS 335.510 is amended to read as follows:

(1) [~~There is hereby created~~]The Kentucky Board of ***Licensed***[~~Certification for~~] Professional Counselors ***is created and shall consist***[~~consisting~~] of seven (7) members who shall ***reside in the Commonwealth and*** be appointed by the Governor. One (1) of the members shall be a citizen at large and the remaining six (6) members shall be ***licensed***[~~certified~~] professional ***clinical*** counselors. The ***licensed professional clinical***[~~certified~~] counselor members on the board shall have been ***licensed***[~~certified~~] as professional ***clinical*** counselors in the Commonwealth for at least two (2) years preceding their appointments. The citizen at large member shall not be associated with or have a relative who is associated with the practice or business of professional counseling. Neither the citizen at large nor his relatives shall have a financial interest in the practice or business of professional counseling.

(2)[~~ For the initial appointment, the six (6) counselor members shall be appointed by the Governor from a list of eighteen (18) names submitted by the board of directors of the Kentucky Counseling Association. The counselor appointees shall possess the qualifications for certification, as set out in KRS 335.525, but shall not be required to have taken the examination. The counselor appointees shall be deemed certified under the provisions of KRS 335.500 to 335.599, immediately upon their appointment to the board. The Governor shall stagger the initial terms as follows: one (1) member shall be appointed to a one (1) year term, two (2) members to a two (2) year term, two (2) members for a three (3) year term, and two (2) members for a four (4) year term.~~

~~(3) After December 31, 1997, each counselor member appointed to the board shall be a certified professional counselor and shall be actively engaged in the practice or teaching of counseling.~~

~~(4)~~] All[~~ subsequent~~] appointments and vacancies to the board shall be filled by the Governor. Appointments and vacancies of counselor members shall be filled by the Governor from a list of three (3) names for each position to be filled that is submitted by the Kentucky ***Mental Health*** Counseling Association. Vacancies shall be filled for the remainder of the unexpired terms and in the same manner as set out in this subsection.

(3)[~~(5)~~] ***The length of a term of board appointment shall be four (4) years.*** A board member shall serve no more than two (2) consecutive terms.

(4)[~~(6)~~] [~~At its first meeting after July 15, 1996,~~]The board shall elect a chair from its membership, and a chair shall be elected annually ***but shall serve no more than two (2) consecutive one (1) year terms***[~~ thereafter~~]. Four (4) members of the board shall constitute a quorum.

(5)[~~(7)~~] The board shall hold two (2) meetings annually to give examinations pursuant to KRS 335.515 and may hold additional meetings as the board deems necessary. The additional meetings may be held upon call of the ***chair***[~~chairman~~] or upon the written request of three (3) or more board members.

(6)[~~(8)~~] The Governor shall remove a member from the board, for cause, only.

(7)[~~(9)~~] A member of the board who is a citizen at large shall be disqualified from his ***or her*** seat on the board if:

(a) He ***or she***, a member of his ***or her*** household, or a relative becomes associated with or financially interested in the business of professional counseling;

(b) He ***or she***, a member of his ***or her*** household, or ***a***[~~his~~] relative becomes, or is in training to become, a ***licensed***[~~certified~~] professional ***clinical*** counselor; or

(c) He ***or she*** ceases to reside in the Commonwealth.

(8)[~~(10)~~] A counselor member of the board shall be disqualified from his seat on the board if:

(a) He ***or she*** has been determined by the board or a court to have violated the code of professional ethics or practice standards established pursuant to KRS 335.500 to 335.599;

(b) He ***or she*** ceases to be a ***licensed***[~~certified~~] professional ***clinical*** counselor; ***or***[~~and~~]

(c) He ***or she*** ceases to reside in the Commonwealth.

(9)[~~(11)~~] Each board member shall receive one hundred dollars ($100) per day for each day of service actually given in carrying out his duties under KRS 335.500 to 335.599, and shall also be reimbursed the necessary traveling, hotel, and contingent expenses ***incurred***[~~he incurs~~] in attending the meetings of the board and in performing ***the***[~~his~~] duties ***of the board***.

Section 4. KRS 335.515 is amended to read as follows:

(1) The board shall administer and enforce the provisions of KRS 335.500 to 335.599 and shall evaluate the qualifications of applicants for ***licensure***[~~certification~~].

(2) The board may issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of KRS 335.500 to 335.599.

(3) The board shall promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to carry out and enforce the provisions of KRS 335.500 to 335.599, including the establishment of fees.

(4) The board ***shall***[~~may~~] conduct hearings ***as necessary*** pursuant to KRS Chapter 13B and ***shall*** keep records and minutes necessary to carry out the function of KRS 335.500 to 335.599.

(5) The board ***shall***[~~may~~] issue ***credentials***[~~certificates~~] to qualified candidates.

(6) The board ***shall***[~~may~~] renew ***credentials subject to the provisions of Section 7 of this Act***[~~certificates~~] and ***shall***[~~may~~] require[~~ up to~~] ten (10) continuing education hours as a condition for renewal each year.

(7) The board may suspend or revoke ***credentials***[~~certificates~~], impose supervisory or probationary conditions upon certificate holders, impose administrative disciplinary fines, issue written reprimands and admonishments, or perform any combination thereof.

(8) The board may seek injunctive relief in Franklin Circuit Court to enjoin violation of KRS 335.505(1).

(9) The board may grant retired status or inactive status to a ***credential***[~~certificate~~] holder under conditions set out in administrative regulations promulgated by the board.

(10) The board may employ persons as necessary to carry on its work and shall define those ***persons'***[~~person's~~] duties and fix their compensation.

(11) The board shall promulgate by administrative regulation a code of ethics for and standards of practice ***for all credential holders***[~~of certified professional counselors~~].

(12) The board may enter into reciprocal agreements with certified ***or licensed*** professional counseling boards[~~ or licensed professional counseling boards~~].

Section 5. KRS 335.525 is amended to read as follows:

(1) The board shall issue a "professional ***clinical*** counselor" ***license***[~~certificate~~] to an applicant who:

(a) Has paid the application fee and the appropriate examination fee to the board;

(b) Is of good moral character;

(c) Has received a master's, specialist, or doctoral degree in counseling or a related field from a regionally-accredited institution;

(d) Has completed a minimum of sixty (60) graduate semester hours in the following:

1. The helping relationship, including counseling theory and practice;
2. Human growth and development;
3. Lifestyle and career development;
4. Group dynamics, process, counseling, and consulting;
5. Assessment, appraisal, and testing of individuals;
6. Social and cultural foundations, including multicultural issues;
7. Principles of etiology, diagnosis, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior;
8. Research and evaluation; and
9. Professional orientation and ethics;

(e) Has completed a minimum of ***four***[~~three~~] thousand ***(4,000)***[~~(3,000)~~] hours of experience in the practice of counseling, ***all***[~~two thousand (2,000) hours~~] of which must have been obtained since obtaining the master's degree and must be under approved supervision and shall include, but not be limited to, a minimum of one thousand

six[~~two~~] hundred ***(1,600)***[~~(1,200)~~] hours of direct counseling with individuals, couples, families, or groups and a minimum of one hundred (100) hours of individual, face-to-face[~~ weekly~~] clinical supervision with an approved supervisor. ***Each applicant is encouraged to include as part of the total hours of experience a minimum of ten (10) hours of direct counseling with individuals in a jail or corrections setting.***[~~ Up to one thousand (1,000) hours of the supervised experience may be obtained from a supervised practicum or internship. After January 1, 2001, the board shall issue certificates only to applicants who have obtained all three thousand (3,000) hours of experience since obtaining the master's degree.~~] All applicants shall complete an organized practicum or internship consisting of at least four hundred (400) hours; and

(f) Has achieved passing scores on all portions of the examinations required by the board.

(2) The board may issue a ***"***professional counselor associate***" license***[~~ certificate~~] to an applicant ***who:***

(a) Has completed all requirements under paragraphs (a) to (d) of subsection (1) of this section;

(b) Has not met the requirements of paragraphs (e) or (f) of subsection (1) of this section; and

(c) Has obtained a board-approved supervisor of record.

(3) (a) On the effective date of this Act, a previously certified professional counselor in Kentucky shall be entitled to use the term "licensed professional clinical counselor" and shall be issued a professional clinical counselor license upon annual renewal.

(b) An applicant who has been issued a professional clinical counselor license shall be entitled to use the title "licensed professional clinical counselor."

(4) (a) On the effective date of this Act, a previously certified professional counselor associate shall be entitled to use the term "licensed professional counselor associate" and shall be issued a professional counselor associate license upon annual renewal.

(b) An applicant who has been issued a professional counselor associate license shall be entitled to use the title "licensed professional counselor associate."

(5) (a) A licensed professional counselor associate shall maintain ongoing supervision as approved by the board.

(b) A licensed professional counselor associate may apply for the credential of licensed professional clinical counselor upon completion of the hours of experience and passing the examinations required under paragraphs (e) and (f) of subsection (1)[~~as provided under KRS 335.500. An associate may apply for professional counselor certification upon completion of the hours of experience required under subsection (1)(e)~~] of this section.

(6)[~~(3)~~] The application fee for ***licensure***[~~certification~~] and the examination fee shall be established pursuant to administrative regulation promulgated by the board.

Section 6. KRS 335.527 is amended to read as follows:

(1) The board shall ***grant the appropriate credential under Section 5 of this Act to***[~~certify~~] an applicant for endorsement who:

(a) Has received a master's, specialist, or doctoral degree in counseling or a related field from a regionally accredited institution with ***a minimum of sixty (60) hours of*** graduate coursework ***to include***[~~in~~] the following:

1. The helping relationship, including counseling theory and practice;
2. Human growth and development;
3. Lifestyle and career development;
4. Group dynamics, process, counseling, and consulting;
5. Assessment, appraisal, and testing of individuals;
6. Social and cultural foundations, including multicultural issues;
7. Principles of etiology, diagnosis, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior;
8. Research and evaluation; and
9. Professional orientation and ethics;

(b) Holds an active valid license or certificate from another state to practice as a professional counselor;

(c) Is in good standing with the certifying or licensing board of that state;

(d) Is of good moral character;

(e) Has paid the application fee to the board; and

(f) Has provided the board with evidence of a minimum of ***five (5)***[~~three (3)~~] years experience as a certified or licensed professional counselor.

(2) The applicant shall be exempt from:

(a) The required hours of supervised experience in the practice of counseling set out in KRS 335.525(1)(e); and

(b) The examination requirement set out in KRS 335.525(1)(f).

Section 7. KRS 335.535 is amended to read as follows:

(1) Each ***credential holder***[~~person certified as a professional counselor~~] shall pay to the board an annual renewal fee on or before the renewal date established in administrative regulations promulgated by the board. All ***credentials***[~~certificates~~] not renewed by the renewal date each year shall expire because they were not timely renewed;

(2) A person who fails to renew his ***or her credential***[~~certificate~~] on or before the renewal date shall be given a sixty (60) day grace period. During the grace period, ***the credential holder***[~~he~~] may continue to ***practice***[~~use the title "certified professional counselor"~~] and may renew ***the credential***[~~his certificate~~] upon payment of the renewal fee and a late fee.

(3) All ***credentials***[~~certificates~~] not renewed within sixty (60) days after the renewal date shall terminate. Upon termination, the ***credential***[~~certificate~~] holder shall not be eligible to use the ***credential***[~~title "certified professional counselor"~~] in the Commonwealth.

(4) After the sixty (60) day grace period, individuals with terminated ***credentials***[~~certificates~~] may reinstate their ***credential***[~~certificates~~] upon payment of the renewal fee and a reinstatement fee.

(5) A suspended ***credential***[~~certificate~~] shall be renewed as provided in this section; however, the ***credential***[~~certificate~~] holder shall not use the ***credential***[~~title "certified professional counselor"~~] until the suspension has ended[~~,~~] or ***has been***[~~is~~] removed by the board.

(6) A revoked ***credential***[~~certificate~~] may not be renewed. However, the ***credential***[~~certificate~~] holder shall pay the reinstatement and renewal fees as set forth in this section before ***the credential***[~~his license~~] is reinstated.

(7) A person who fails to reinstate his ***or her credential***[~~certificate~~] within three (3) years after its termination may not have it renewed, restored, reissued, or reinstated. This person may apply for and obtain a new ***credential***[~~certificate~~] by meeting the current requirements of KRS 335.525.

(8) The board may require that a person applying for renewal or reinstatement of his ***or her credential***[~~certification~~] show proof of having completed continuing education requirements.

Section 8. KRS 335.540 is amended to read as follows:

(1) The board may refuse to issue a ***credential***[~~certificate~~], or may suspend, revoke, impose probationary conditions upon, impose an administrative fine, or issue a written reprimand or admonishment if the ***credential***[~~certificate~~] holder has:

(a) Committed a dishonest or corrupt act. If the act is a crime, conviction in a criminal proceeding shall not be a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence at the ensuing disciplinary hearing of the guilt of the ***credential***[~~certificate~~] holder or applicant. Conviction includes all instances in which a plea of no contest is the basis of the conviction;

(b) Misrepresented or concealed a material fact in obtaining or reinstating a ***credential***[~~certificate~~];

(c) Committed any unfair, false, misleading, or deceptive act or practice;

(d) Been incompetent or negligent in the activities he has undertaken ***within his or her practice***[~~as a certified professional counselor~~];

(e) Violated any state statute or administrative regulation promulgated pursuant to KRS 335.500 to 335.599;

(f) Failed to comply with an order issued by the board or an assurance of voluntary compliance;

(g) Violated the code of ethics; or

(h) Violated any applicable provisions of federal or state law.

(2) Any person whose ***credential***[~~certificate~~] has been revoked for at least five (5) or more years may petition the board for reinstatement. The board shall investigate the petition and may reinstate the ***credential***[~~certificate~~] upon a finding that the individual has complied with the terms prescribed by the board and is able to competently engage in ***professional practice.***[~~the use of the title "certified professional counselor."~~]

(3) The board may issue a written admonishment to the ***credential***[~~certificate~~] holder if the board determines based on the evidence, that a violation that is not serious has occurred. A copy of the written admonishment shall be placed in the permanent file of the ***credential***[~~certificate~~] holder. The ***credential***[~~certificate~~] holder may respond in writing to the admonishment within thirty (30) days of its receipt and may have it placed in his permanent ***credential***[~~certification~~] file. Alternatively, the ***credential***[~~certificate~~] holder may file a request for a hearing with the board within thirty (30) days of the admonishment. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing pursuant to the provisions of KRS Chapter 13B.

(4) At any time during the investigative or hearing processes, the board may enter into an agreed order or accept an assurance of voluntary compliance with the ***credential***[~~certificate~~] holder.

(5) The board may consider, modify, or reverse its probation, suspensions, or other disciplinary action.

Section 9. KRS 335.545 is amended to read as follows:

Before suspending, revoking, imposing probationary or supervisory conditions upon, imposing an administrative fine, issuing a written reprimand, or performing any combination of these actions regarding any ***credential***~~[certificate]~~ issued pursuant to KRS 335.500 to 335.599, the board shall set the matter for hearing pursuant to the provisions of KRS Chapter 13B. After denying an application under KRS 335.500 to 335.599, or issuing a written admonishment, the board shall grant a hearing to the denied applicant pursuant to the provisions of KRS Chapter 13B.

Section 10. KRS 319.015 is amended to read as follows:

Nothing in this chapter shall be construed to limit:

(1) The activities, services, and use of title on the part of a person in the employ of the federal government;

(2) Persons in the employ of accredited institutions of higher education from engaging in the teaching of psychology, the conduct of psychological research, the provision of consultation services to organizations or institutions, or the provision of expert testimony, but not including the delivery or supervision of direct psychological services to individuals or groups;

(3) Persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes from rendering services consistent with the laws regulating their professional practice and the ethics of their profession. They shall not represent themselves to be psychologists or use the term "psychological" in describing their services;

(4) The activities of a student, intern, or resident in psychology, pursuing a course of study approved by the department of psychology of an educational institution rated acceptable by the board for qualifying training and experience, provided such activities are recognized by transcript as a part of his or her supervised course of study;

(5) The recognized educational activities of teachers in accredited public and private schools, the authorized duties of guidance counselors who are certified by the Education Professional Standards Board, or the activities of persons using psychological techniques in business and industrial organizations for employment placement, promotion, or job adjustment of their own officers and employees;

(6) Persons who are credentialed as school psychologists by the Education Professional Standards Board from using the title "school psychologist" and practicing psychology as defined in KRS 319.010, if their practice is restricted to regular employment within a setting under the purview of the Education Professional Standards Board. These individuals shall be employees of the educational institution and not independent contractors providing psychological services to educational institutions;

(7) A duly ordained minister, priest, rabbi, Christian Science practitioner, or other clergyman from carrying out his or her responsibilities while functioning in a ministerial capacity within a recognized religious organization serving the spiritual needs of its constituency, if he or she does not hold himself or herself out as a psychologist; or

(8) Any nonresident temporarily employed in this state from rendering psychological services for not more than thirty (30) days every two (2) years, if he or she holds a valid current license or certificate as a psychologist in his or her home state or country and registers with the board prior to commencing practice in the Commonwealth.

~~[(9) Persons in subsection (5) of this section pursuing alternative certification as professional counselors pursuant to the provisions of KRS 335.500 to 335.599 who meet the requirements set out in KRS 335.525 shall be exempt from meeting either subsection (1)(e) or (1)(f) of that section.]~~

Section 11. KRE 506 is amended to read as follows:

(a) Definitions. As used in this rule:

(1) A "counselor" includes:

(A) A certified school counselor who meets the requirements of the Kentucky Board of Education and who is duly appointed and regularly employed for the purpose of counseling in a public or private school of this state;

(B) A sexual assault counselor, who is a person engaged in a rape crisis center, as defined in KRS Chapter 421, who has undergone forty (40) hours of training and is under the control of a direct services supervisor of a rape crisis center, whose primary purpose is the rendering of advice, counseling, or assistance to victims of sexual assault;

(C) A certified professional art therapist who is engaged to conduct art therapy pursuant to KRS 309.130 to 309.1399;

(D) A certified marriage and family therapist as defined in KRS 335.300 who is engaged to conduct marriage and family therapy pursuant to KRS 335.300 to 335.399;

(E) A ***licensed***~~[certified]~~ professional ***clinical*** counselor ***or a licensed professional counselor associate*** as defined in KRS 335.500;

(F) An individual who provides crisis response services as a member of the community crisis response team or local community crisis response team pursuant to KRS 36.250 to 36.270;

(G) A victim advocate as defined in KRS 421.570 except a victim advocate who is employed by a Commonwealth's attorney pursuant to KRS 15.760 or a county attorney pursuant to KRS 69.350; and

(H) A certified fee-based pastoral counselor as defined in KRS 335.600 who is engaged to conduct fee-based pastoral counseling pursuant to KRS 335.600 to 335.699.

(2) A "client" is a person who consults or is interviewed or assisted by a counselor for the purpose of obtaining professional or crisis response services from the counselor.

(3) A communication is "confidential" if it is not intended to be disclosed to third persons, except persons present to further the interest of the client in the consultation or interview, persons reasonably necessary for the transmission of the communication, or persons present during the communication at the direction of the counselor, including members of the client's family.

(b) General rule of privilege. A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of counseling the client, between himself, his counselor, and persons present at the direction of the counselor, including members of the client's family.

(c) Who may claim the privilege. The privilege may be claimed by the client, his guardian or conservator, or the personal representative of a deceased client. The person who was the counselor (or that person's employer) may claim the privilege in the absence of the client, but only on behalf of the client.

(d) Exceptions. There is no privilege under this rule for any relevant communication:

(1) If the client is asserting his physical, mental, or emotional condition as an element of a claim or defense; or, after the client's death, in any proceeding in which any party relies upon the condition as an element of a claim or defense.

(2) If the judge finds:

(A) That the substance of the communication is relevant to an essential issue in the case;

(B) That there are no available alternate means to obtain the substantial equivalent of the communication; and

(C) That the need for the information outweighs the interest protected by the privilege. The court may receive evidence in camera to make findings under this rule.

Section 12. The following KRS section is repealed:

335.530 Alternative certification requirements until January 1, 1998.

Section 13. Members of the Kentucky Board of Certification for Professional Counselors as of the effective date of this Act may serve as members of the Kentucky Board of Licensed Professional Counselors created in Section 3 of this Act until the expiration of their terms. Vacancies to the Kentucky Board of Licensed Professional Counselors shall be filled under the provisions of Section 3 of this Act.

Representative Nunn moved that the House concur in the Senate Committee Substitute to **HB 57**. Agreed

Representative Nunn moved that **HB 57**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**.(See March 19, 2002, Message received on Senate Committee Substitute roll call on **HB 57** - Appendix)

HB 57, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 57**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 852 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **HB 852** be passed.

On the roll call the vote was: **Yeas 95, Nays 1**. (See March 19, 2002, roll call on **HB 852** - Appendix.)

HB 852 was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 852** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved to waive the posting requirement on the following: **SB 289, SB 222, SB 227, SB 195,** and **SB 234**. Agreed.

Representative Stumbo moved that the following Bills and Resolution be recommitted:

Appropriations and Revenue: **HB 161, HB 22, HB 528, HB 682, HB 610, HB 698, HB 294, HB 742, HB 475, HB 738, HB 748, HB 639,** and **HCR 136.**

Representative Stumbo moved that the rules be suspended for the Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HR 246, by Representatives Vincent and Adkins: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Elmo Sturgill.

HR 247, by Representative Meeks: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Barbara Price-Cordery.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Tourism: **SB 229, SCR 92**

Local Government: **SB 102**

Report of Committees (Continued)

The Committee on Appropriations and Revenue reported **HB 568,** with Committee Substitute attached thereto, **HB 769, HB 781,** with Committee Substitutes attached thereto, **SB 25,** with Committee Substitute attached thereto, **SB 132,** with Committee Substitute and Committee Amendment attached thereto, and **SB 152,** with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee Substitute 2 to **HB 781** is as follows:

HB 781, AN ACT relating to juries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 29A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Court" means a Circuit or District Court of this Commonwealth and includes any judge of these courts.

(2)[~~ "Jury wheel" means any physical device or electronic system approved by the Supreme Court for the storage and random selection of the names or identifying numbers of prospective jurors.~~

~~(3)~~] "Name" includes an identifying number.

Section 2. KRS 29A.040 is amended to read as follows:

(1) A list of ***all*** persons over the age of eighteen (18) and holding valid driver's licenses which were issued in the county***, of all persons over the age of eighteen (18) filing resident individual income tax returns which show an address in the county, and of all persons registered to vote in the county***[~~and all voter registration lists~~] shall constitute a master list of prospective jurors ***for a county***.[~~ The jury commission shall annually acquire a copy of the driver's license list from the Transportation Cabinet and copies of the voter registration lists from the official having custody of the required lists. The jury commission shall consult the master list in the manner specified by KRS 29A.050 in the selection of prospective jurors.~~]

(2) ***The Administrative Office of the Courts shall at least annually acquire an electronic copy of the driver's license list from the Transportation Cabinet; an electronic copy of the tax roll described in subsection (1) of this section from the Department of Finance and Administration; and an electronic copy of the voter registration lists from the State Board of Elections. In addition, the Administrative Office of the Courts shall at least annually acquire a listing of deceased persons from the Department of Vital Statistics.*** The Transportation Cabinet***, the Department of Finance and Administration, the State Board of Elections, and the Department of Vital Statistics*** and ***those*** public officers or employees having custody, possession, or control of any of the lists required under [~~subsection (1) of~~] this section shall annually furnish a copy of the list to the ***Administrative Office of the Courts***[~~jury commission~~] without charge.

(3) The Administrative Office of the Courts shall merge the lists required by subsections (1) and (2) of this section in a manner designed to create an accurate listing of all persons eligible for jury service. The Administrative Office of the Courts may purge names from the master list upon reasonable evidence of death, change of state residence, change of

county residence, or any other reason causing a person to be ineligible for jury service as found in Section 4 of this Act.

Section 3. KRS 29A.060 is amended to read as follows:

(1) Each Circuit or District Judge shall inform the Chief Circuit Judge or ***the Chief Circuit Judge's***[~~ his~~] designee of ***the need***[~~his needs~~] for qualified jurors.

(2)[~~To select a grand jury or a petit jury in Circuit Court, the clerk shall:~~

~~(a) Draw thirty-two (32) names at random from the jury wheel;~~

~~(b) List the names, in the order drawn, from one (1) to thirty-two (32);~~

~~(c) Place thirty-two (32) numbered balls in a box and shake the box;~~

~~(d) Draw the required number of balls, dependent on the number of jurors required plus alternates, from the box and record the number of each ball as it is drawn.~~

~~(3) To select a petit jury for a trial in District Court, the clerk shall:~~

~~(a) Draw sixteen (16) names at random from the jury wheel;~~

~~(b) List the names, in the order drawn, from one (1) to sixteen (16);~~

~~(c) Place sixteen (16) numbered balls in a box and shake the box;~~

~~(d) Draw the required number of balls, dependent on the number of jurors required plus alternates, from the box and record the number of each ball as it is drawn.~~

~~(4) The names corresponding to the numbers on the balls which have been drawn shall constitute the petit jury. When alternate jurors are permitted the last ball or balls drawn, as the case may be, will represent the alternate jurors.~~

~~(5) As jurors are excused and new jurors are required additional balls shall be drawn from the box, one for each juror required, until all of the balls in the box have been exhausted.~~

~~(6) In the event that all of the balls in the box have been exhausted the box shall be refilled utilizing the process required by subsections (1) to (4) of this section.~~

~~(7)~~] The Chief Circuit Judge ***or designee*** shall regulate the random assignment of jurors for use in Circuit and District Courts. Any petit juror assigned to a judge of Circuit or District Court may be used by any other judge of any other branch or division of Circuit or District Court when jurors are needed.

(3)[~~(8)~~] If a grand, petit, or other jury is ordered to be drawn, the Chief Circuit Judge or[~~ his~~] designee thereafter shall cause each person drawn for jury service to be served with a summons requiring ***that person***[~~him~~] to report for jury service at a specified time and place, unless otherwise notified by the court, and to be available for jury service for thirty (30) judicial days thereafter. The service of summons ***shall be made by the court utilizing first class mail***[~~may be either made personally by the sheriff or sent by first-class mail~~], addressed to ***each person***[~~him~~] at his ***or her*** usual residence, business, or post office address. ***In the event service cannot be accomplished by first class mail, the court may cause service to be made personally by the sheriff.*** In either case, notice shall be mailed or served to the ***prospective*** juror at least thirty (30) days before he ***or she*** is required to attend.

(4)[~~(9)~~] The juror qualification form required by KRS 29A.070 shall be enclosed with the summons. If the summons is served by mail, any prospective juror who does not return the juror qualification form within ten (10) days ***may***[~~shall~~] be personally served by the sheriff ***at the discretion of the Chief Circuit Judge or Chief Circuit Judge's designee***.

(5)[~~(10)~~] When there is an unanticipated shortage of available jurors ***obtained***[~~drawn~~] from a ***randomized jury list***[~~jury wheel~~], the ***Chief Circuit Judge***[~~court~~] may cause ***to be summonsed a sufficient number of jurors selected sequentially from the randomized jury list beginning with the first name following the last name previously selected***[~~additional names to be drawn~~]. The persons so chosen shall be summoned as provided in this section, but need not be given the notice provided in subsection ***(3)***[~~(8)~~] of this section.

(6)[~~(11)~~] Only persons duly qualified and ***summonsed***[~~summoned~~] under subsection ***(3)***[~~(8)~~] of this section and KRS 29A.070 shall serve as jurors.

(7)[~~(12)~~] If, after making a fair effort in good faith, the judge is satisfied that it will be impracticable to obtain a jury free of bias in the county in which the prosecution is pending, ***the judge***[~~he~~] may obtain a sufficient number of jurors from some adjoining county in which the judge believes there is the greatest probability of obtaining impartial jurors. The judge shall request the Chief Circuit Judge for the adjoining county to draw and summon as many jurors as are needed. Jurors summoned under this subsection need not be given the notice provided in subsection ***(3)***[~~(8)~~] of this section.

[~~(13) The names of jurors drawn from the jury wheel shall be made available to the public.~~]

Section 4. KRS 29A.080 is amended to read as follows:

(1) The Chief Circuit Judge or ***one (1) or more judges of the court, the court's clerk, a deputy clerk, the court's administrator, or a deputy court administrator so designated by the Chief Circuit Judge***[~~another judge designated by him~~] shall determine on the basis of the information provided on the juror qualification form whether the prospective juror is disqualified for jury service for any of the reasons listed in subsection (2) of this section.[~~ He shall enter~~] This

determination ***shall be entered*** in the space provided on the juror qualification form [~~and on the list of names drawn from the jury wheel~~]. The Chief Circuit Judge shall cause each disqualified juror to be immediately notified of ***the juror's***[~~his~~] disqualification.

(2) A prospective juror is disqualified to serve on a jury if ***the juror***[~~he~~]:

(a) Is under eighteen (18) years of age;

(b) Is not a citizen of the United States;

(c) Is not a resident of the county;

(d) Has insufficient knowledge of the English language;

(e) Has been previously convicted of a felony and has not been pardoned ***or received a restoration of civil rights*** by the Governor or other authorized person of the jurisdiction in which ***the person***[~~he~~] was convicted;

(f) Is presently under indictment; or

(g) Has served on a jury within the ***time limitations set out under Section 7 of this Act***[~~past twelve (12) months~~].

(3) ***The Chief Circuit Judge may grant a permanent exemption based upon an individual's request and a finding by the Chief Circuit Judge of a permanent medical condition rendering the individual incapable of serving. The judge granting the permanent exemption shall notify the requesting person and the Administrative Office of the Courts. Upon receiving notification of a permanent exemption the Administrative Office of the Courts shall remove the person's name from the master list.***

(4) There shall be no waiver of these disqualifications, except that pursuant to the Federal Americans With Disabilities Act of 1990, an individual with a disability shall not be disqualified solely by reason of the disability. For the purposes of this section, "individual with a disability" means a person with a physical or mental impairment that substantially limits one (1) or more of the major life activities of the individual, a record of the impairment, or being regarded as having the impairment.

Section 5. KRS 29A.100 is amended to read as follows:

(1) Upon the request of a prospective juror prior to[~~ his~~] assignment to a trial court, the Chief Circuit Judge, or after ***the juror's***[~~his~~] assignment to a trial court, the trial judge may excuse such juror upon a showing of undue hardship, extreme inconvenience or public necessity. ***On the day on which the prospective jurors are summonsed to appear, any person not previously excused who desires to be excused shall be heard.***

(2) The Chief Circuit Judge may designate and authorize one (1) or more judges of the court, the court's clerk, a deputy clerk, the court's administrator, or a deputy court administrator to excuse a juror from service for a period not to exceed ten (10) days or to postpone jury service for a period not to exceed twelve (12) months. The reasons for excuse or postponement shall be entered in the space provided on the juror qualification form.

(3)[~~(2)~~] In his ***or her*** discretion the judge may excuse a juror from service entirely***, reduce the number of days of service,*** or may postpone the juror's service temporarily ***for a period of time not to exceed, however, twenty-four (24) months***. Whenever possible the judge shall favor temporary postponement of service ***or reduced service*** over permanent excuse. When excusing a juror, the judge shall record the juror's name, as provided in KRS 29A.080, and ***the***[~~his~~] reasons for granting the excuse.

Section 6. KRS 29A.110 is amended to read as follows:

The contents of any records or papers used by the ***Administrative Office of the Courts***[~~jury commission~~] or the clerk in connection with the selection process and not required to be made public under this chapter shall not be disclosed, except in connection with the preparation or presentation of a motion under the Rules of Civil Procedure or the Rules of Criminal Procedure ***or upon order of the Chief Justice***.

Section 7. KRS 29A.130 is amended to read as follows:

(1) Except as set out in this section, in any ***twenty-four (24)***[~~twelve (12)~~] month period, a person shall not be required to:

(a)[~~(1)~~] Serve or attend court for prospective service as a petit juror more than thirty (30) court days except when necessary to complete service in a particular case; or

(b)[~~(2)~~] Serve on more than one grand jury; or

(c)[~~(3)~~]Serve as both a grand and petit juror[~~ except as provided in KRS 29A.260~~].

(2) For the purpose of this section, court includes all federal courts, all other state courts, and any court of the Commonwealth.

At any time for cause shown, the court may excuse a grand juror either temporarily or permanently and may swear another grand juror from a current jury panel in place of the one excused. The discharge of any such grand juror shall in no way or manner affect any indictment found by the grand jury as it was composed either before or after such discharge. If it is impossible to fill the vacancy on the grand jury from a current jury panel, the Chief Circuit Judge may summon, using the procedure in KRS 29A.060***(5)***[~~(10)~~], such number of prospective jurors as deemed necessary for the purpose.

Section 8. KRS 29A.260 is amended to read as follows:

At any time for cause shown, the court may excuse a grand juror either temporarily or permanently and may swear another grand juror from a current jury panel in place of the one excused. The discharge of any such grand juror shall in no way or manner affect any indictment found by the grand jury as it was composed either before or after such discharge. If it is impossible to fill the vacancy on the grand jury from a current jury panel, the Chief Circuit Judge may summon, using the procedure in KRS 29A.060***(5)***[~~(10)~~], such number of prospective jurors as deemed necessary for the purpose.

Section 9. KRS 29A.330 is amended to read as follows:

(1) The jury fee for a civil trial in Circuit Court ***and District Court*** shall be ***set in accordance with KRS 48.195***[~~twenty five dollars ($25). The jury fee for a civil trial in District Court shall be twelve dollars and fifty cents ($12.50)~~].

(2) The jury fee shall be assessed as costs against the unsuccessful party upon judgment or dismissal of the action.

(3) If two (2) or more cases are consolidated by order of the court and tried together, the clerk shall collect only one (1) jury fee.

(4) If a plaintiff sues in forma pauperis, he ***or she*** shall not be liable for a jury fee.

(5) If a request for a jury trial is withdrawn or the case is disposed of not less than two (2) court days prior to the date set for trial the clerk shall not assess the jury fee.

Section 10. KRS 29A.990 is amended to read as follows:

(1) Any employer who violates subsection (1) ***or (2)*** of KRS 29A.160 is guilty of a Class B misdemeanor.

(2) Any willful violation of KRS 29A.010 to 29A.330 for which a penalty is not otherwise provided by statute shall be punishable as a Class A misdemeanor.

Section 11. KRS 30A.110 is amended to read as follows:

(1) Each clerk shall pay to each juror[~~, each jury commissioner,~~] and to each witness the compensation allowed to him by law, under appropriations provided by the General Assembly and in accordance with procedures governing expenditures from appropriations. ***The clerk***[~~He~~] shall take a receipt for each payment made by him showing the date on which payment is made. A canceled check shall be the equivalent of a receipt. For the purpose of providing for such payments, the State Treasurer, on direction of the Finance and Administration Cabinet, shall advance to each clerk two (2) imprest funds: one for the payment of jurors[~~ and jury commissioners~~] which shall be sufficient for the period of service of each grand or petit jury panel, or both, but not to exceed a period of sixty (60) days; the other for the payment of Commonwealth witnesses, which shall be sufficient for a period of time not to exceed sixty (60) days.

(2) Each clerk shall be liable on ***the clerk's***[~~his~~] official bond to account for the full amounts advanced to ***the clerk***[~~him~~] under this section. Each clerk shall file a separate statement concerning each imprest fund with the Finance and Administration Cabinet, in such form as the cabinet prescribes, showing the amounts disbursed since the last preceding report, accompanied by a copy of the canceled check, or a receipt for each amount disbursed signed by the person to whom it was paid, and showing the date of the payment and such other information as the cabinet prescribes. These reports shall be forwarded to the cabinet within thirty (30) days after the end of the period for which funds are advanced.

(3) Any clerk who fails to comply with the provisions of subsection (2) of this section shall be required to pay a penalty of five percent (5%) of all funds not so paid or accounted for.

Section 12. The following KRS sections are repealed:

29A.030 Jury commissioners -- Qualifications -- Compensation -- Term -- Duties.

29A.050 Selection of names of prospective jurors by jury commission.

29A.120 Preservation of records and papers compiled in selection process.

The Committee Amendment No. 1 to the Committee Substitute to **SB 132** is as follows:

On page 1, line 10, by changing "***Section 6***" to "***Section 5***";

On page 1, line 22, by changing "***Section 6***" to "***Section 5***";

On page 2, line 9, by changing "***Section 8***" to "***Section 7***";

On page 3, line 7, by changing "***Section 8***" to "***Section 7***";

On page 3, line 20, by changing "***Section 8***" to "***Section 7***";

On page 4, line 3, by changing "***Section 8***" to "***Section 7***";

On page 4, line 9, by changing "***Section 8***" to "***Section 7***";

On page 5, line 12, by changing "***Section 5***" to "***Section 4***";

On page 7, line 10, by changing "***Section 5***" to "***Section 4***";

On page 7, line 17, after "(13)" by deleting all new language through "***(14)***" on line 5, page 8;

On page 8, line 10, by deleting "***(15)***" and removing the brackets and strikethrough to restore "(14)"'

On page 8, line 13, by deleting "***(16)***" and removing the brackets and strikethrough to restore "(15)";

On page 8, line 16, by deleting "*(17)*" and removing the brackets and strikethrough to restore "(16)";
On page 8, line 19, by deleting "*(18)*" and removing the brackets and strikethrough to restore "(17)";
On page 8. beginning with line 26, by deleting all language through line 17 on page 14;
On page 14, line 18, by changing "Section 5." to "Section 4.";
On page 15, line 1, by changing "*Section 4*" to "*Section 3*";
On page 19, line 14, by changing "Section 6." to "Section 5.";
On page 21, line 19, by changing "*Section 8*" to "*Section 7*";
On page 23, line 25, by changing "Section 7." to "Section 6.";
On page 24, line 25, by changing "Section 8." to "Section 7."; and
On page 31, line 25, by changing "*Section 6*" to "*Section 5*".

The Committee on Appropriations and Revenue **SB 239** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 239, AN ACT relating to state government strategic planning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Each program cabinet, the Department for Local Government, the Department of Military Affairs, and the Governor's Office for Technology shall develop and submit a four (4) year strategic plan to meet the broad goals outlined by the Governor, and shall submit an electronic copy of the full plan and an electronic copy of a brief summary of that plan to the state budget director, the secretary of the Executive Cabinet, and the Legislative Research Commission with each biennial budget request.

(1) Each strategic plan shall include, but not be limited to:

(a) A statement of the cabinet or administrative entity's value, vision, and mission;

(b) A statement of how the cabinet or administrative entity's strategic plan is aligned with the Governor's goals and linked to the budget request and the six (6) year capital plan of the cabinet or administrative entity;

(c) A brief summary of a situation analysis conducted by the program cabinet or administrative entity;

(d) Identification of measurable goals for the next four (4) years;

(e) Specification of objectives to meet the stated goals;

(f) Identification of performance indicators to be used to measure progress toward meeting goals and objectives; and

(g) A progress report providing data and information on the performance indicators set forth in the program cabinet or administrative entity's most recent strategic plan.

(2) On or before September 1 of each even-numbered fiscal year, program cabinets and administrative entities which have submitted strategic plans in the previous fiscal year shall submit a progress report to the office of the state budget director, or its designee, which provides data and information regarding the progress the program cabinet or entity has made toward meeting its goals as measured by performance indicators set forth in the cabinet or entity's most recent strategic plan.

(3) The state budget director shall designate an entity to develop and implement a methodology for strategic planning and progress reporting for use by program cabinets and administrative entities submitting strategic plans and progress reports pursuant to this section. The entity designated by the state budget director shall develop and make available a training course in strategic planning that is appropriate for and targeted to state government managers, and shall make that training course available to state managers and their designees, who have responsibility for the completion of a strategic plan as required by this section.

(4) The Governor's Office for Technology shall maintain uniform electronic strategic plan and progress report submission forms and a procedure that allows all plans and progress reports to be entered into an electronic database that is searchable by interested parties. The database shall be developed and maintained in a form that complies with all provisions of KRS 48.950 to 48.960. The Governor's Office for Technology shall develop and maintain a program to provide public access to submitted plans and progress reports.

Motions, Petitions, and Communications (Continued)

Representative Gooch moved the adoption of the following **Legislative Citation No. 97**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Nicholas Todd Bosaw and joins with Representative Jim Gooch, Jr. in expressing deepest sympathy to the Bosaw Family and all those who share in the tragic and untimely loss of this cherished and talented young citizen who died on October 26, 2001. The beloved son of Boyd and Joni Bosaw; brother of Shane Gregory; and cherished grandson of Windola Bosaw, this remarkable young man, an employee of the Department of Defense, had amassed a phenomenal record of accomplishment for one so young. The valedictorian of Webster County High School, he was named the recipient of a four-year trustee scholarship to the University of Louisville, where he earned a BS in electrical engineering; was awarded the National Security Agencies SERIP program to complete his masters, which he earned with a specialty in electrical engineering; the author of a mathematical formula used for measuring electronic noise known as the Bosaw Ratio Factor; he was also the founder and member of the heavy metal band, "Gate" and held ten copyrights on music he had written; and was a power lifting title holder, having won state championship USAPL in 1995, 1996, 1997 and 1998, and placing fifth in the power lifting Viking Open in Chicago. Nicholas Todd Bosaw is remembered on this day with sorrow and regret for the brevity of his days and with remembrance of the joy he brought to those who knew and loved him. Done in Frankfort, Kentucky, this nineteenth day of March, in the year two thousand and two.

Legislative Citation No. 97 was adopted without objection.

Representative Treesh moved the adoption of the following **Legislative Citation No. 93**.

The House of Representatives of the Commonwealth of Kentucky hereby offers sincerest congratulations to Marchello Cavitt upon being named the Kentucky Youth of the Year by the Boys and Girls Clubs of America. The Youth of the Year program, now in its 55th year, recognizes young citizens who have overcome personal challenges and obstacles to make outstanding contributions to their club, family, school and the community. A young man with high goals, Marchello Cavitt maintains, with honor classes, a 4.1 GPA at Owensboro High School, serves as a role model and caretaker for his two young sisters, and works at a part-time job. His involvement in academic and extracurricular activities have earned him numerous awards, including the President's Student Service Scholarship, the Kentucky Youth Alliance Outstanding Speaker Award and the Louis Carpenter Memorial Scholarship Award. Active in the Owensboro Boys and Girls Club, he has served on the Junior staff for two years and plays an active role in the SMART Moves program as a peer leader and presenter as well as serving as a tutor. He has made considerable contributions to the community through such volunteer efforts as assisting with the Back-to-School Bash for the Housing Authority of Owensboro; volunteering at the Salvation Army following the January 2000 tornado which devastated the southwest portion of Owensboro; and serving as vice president of the Co-Ed Y, in their efforts to gather food for the needy. As Marchello Cavitt represents this great Commonwealth in competition for the title of Midwest Youth of the Year, the members of this honorable body are delighted to join Representative Mark Treesh in extending sincere congratulations and best wishes for continued success and good fortune to this remarkable young citizen. Done in Frankfort, Kentucky, this nineteenth day of March, in the year two thousand and two.

Legislative Citation No. 93 was adopted without objection.

Representative Denham moved the adoption of the following **HR 240**:

HR 240, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Olious Mae Henson.

WHEREAS, Olious Mae Henson, a native of Fleming County, Kentucky, was born on July 28, 1910, and she traversed these earthly bounds on October 7, 2001; and

WHEREAS, Olious Mae Henson was the loving daughter of the late Benjamin and Bessie Wilson Price, and she was preceded in death by a son, Donald Lee Henson, and two brothers, Dallas and Jim Price; she was the devoted wife of seventy years to the late Eddie Clifton Henson, and the loving mother to two sons and their wives, Darrell and Betty Zweigart Henson of Aberdeen, Ohio, and Melvin and Charlotte Walton Henson of Maysville; and she was the proud grandmother of Dr. Timothy Henson of San Antonio, Texas, Jeff Henson and Mindi Wright, both of Aberdeen, Ohio, Robert and Diane Henson of North Richland Hills, Texas, Lori Beth Henson of Cincinnati, Ohio, Joseph Henson of Lexington, and Dana Henson of Rectorville; and she had seven loving great-grandchildren, Daniel Henson, Haley and Madison Wright, Tyler Henson, Shea Henson, Matthew Henson, and Jarrett Cooper; and she is also survived by four loving sisters, Viola Carpenter and Wilma Legge, both of Maysville, Virginia Bauer of Fern Leaf, and Norma Groves of Pendleton County; and

WHEREAS, Olious Mae Henson was an honor graduate of the old Germantown High School, she was a dedicated mother and homemaker, caring for her loving grandchildren, and gaining seven great-grandchildren; and she was a lifetime member of Trinity United Methodist Church in Maysville; and

WHEREAS, the passing of Olious Mae Henson has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Olious Mae Henson, and extends to her family and friends its most heartfelt sympathy. Her funeral services were held on October 10, 2001, at Brell and Son Funeral Home in Maysville, with the Reverend Larry Polston and Dr. E. Ray Throckmorton officiating. Her eulogy was prepared and delivered by her loving grandchildren, with burial in the Maysville Cemetery.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Olious Mae Henson.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. Darrell Henson, 1731 Christopher Drive, Aberdeen, Ohio 45101.

There being no objection **HR 240** was adopted.

Representative Crenshaw moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **SB 128** and **SJR 23**. Agreed.

Representative Bather moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bather moved that he be recorded as voting "yea" on **HB 68**. Agreed.

Representative Walton moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Walton moved that he be recorded as voting "nay" on **HB 359**. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nesler moved that he be recorded as voting "nay" on **HB 576**. Agreed.

Representative Denham moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Denham moved that he be recorded as voting "yea" on **HB 811, HB 873**, and **HB 757**. Agreed.

Representative Brinkman moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Brinkman moved that he be recorded as voting "yea" on **SB 107, SB 112, SB 128, SJR 16, SJR 23, SJR 39,** and **SJR 47**. Agreed.

Representative Colter moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Colter moved that she be recorded as voting "yea" on **HB 842, HB 855, HB 359, HJR 212, HJR 210, HJR 181, HJR 205, HJR 189, HJR 3, SB 128, SB 112, SB 107, SCR 76, SJR 24, SJR 23, SCR 47, SJR 39,** and **SJR 16**. Agreed.

Floor Amendments

Floor Amendment No. 1 to **SB 197**, by Representative J. Adams:

On page 3, after line 9 by adding the following:
"Section 2. This Act takes effect March 1, 2003.".

Floor Amendment No. 2 to **SB 197**, by Representative J. Adams:

On page 3, after line 9 by adding the following:
"Section 2. This Act takes effect July 1, 2003.".

Floor Amendment No. 1 to the Committee Substitute to **HB 867**, by Representative Weaver:

Beginning on page 1, line 1, and continuing through page 11, line 12, delete the context of the bill in its entirety and insert in lieu thereof the following:

"Section 1. The Legislative Research Commission shall establish a task force to study the issuance of permits, driver licenses, and nondriver identification cards. The task force shall analyze:

(a) The cost the Transportation Cabinet and the Administrative Office of the Courts are incurring as Kentucky begins to implement a process to issue secure and tamper proof digitized permits, driver licenses, and nondriver identification cards;

(b) The process and cost of the system Kentucky has traditionally used to issue permits, driver licenses, and nondriver identification cards; and

(c) The systems used by other states to issue secure and tamper proof digitized permits, driver licenses, and nondriver identification cards.

Section 2. The task force shall be composed of sixteen (16) members. The Legislative Research Commission shall appoint three (3) members of the House of Representatives and three (3) members of the Senate. The Legislative Research Commission shall appoint one (1) House member and one (1) Senate member to serve as co-chairs of the task force. The Legislative Research Commission shall appoint ten (10) additional members based upon the following recommendations:

(a) The Governor shall recommend one (1) member who represents the Governor's Office of Technology;

(b) The Governor shall recommend one (1) member who represents the Governor's Office of Policy and Management;

(c) The Chief Justice of the Supreme Court shall recommend two (2) members;

(d) The secretary of the Justice Cabinet shall recommend one (1) member of the Kentucky State Police;

(e) The secretary of the Transportation Cabinet shall recommend two (2) members who represent the cabinet; and

(f) The President of the Circuit Clerks Association shall recommend three (3) members who are circuit clerks that are members of the Kentucky Circuit Clerks Association.

Section 3. The task force shall report its findings to the Legislative Research Commission for referral to the appropriate committee. The report shall be due not later than November 30, 2002. Meetings of the task force shall be monthly and on a schedule established by the Legislative Research Commission.

Section 4. Provisions of this Act to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified in this section to an interim joint committee or subcommittee thereof, and to designate a study completion date.".

Floor Amendment No. 3 to **SB 197**, by Representative A. Arnold:

On page 3, after line 9 by adding the following:

"Section 2. This Act takes effect March 1, 2003.".

Floor Amendment No. 4 to **SB 197**, by Representative A. Arnold:

On page 3, after line 9 by adding the following:

"Section 2. This Act takes effect July 15, 2003.".

Floor Amendment No. 2 to **SB 143**, by Representative A. Arnold:

On page 4, after line 6 by adding the following:

"Section 2. This Act takes effect July 15, 2003.".

Floor Amendment No. 3 to **SB 143**, by Representative A. Arnold:

On page 4, after line 6 by adding the following:

"Section 2. This Act takes effect March 1, 2003.".

Floor Amendment No. 6 to the Committee Substitute to **HB 768**, by Representative Ballard:

On page 60, between lines 15 and 16, by inserting the following new subparagraph:

"***6. Thirteen percent (13%) to the Department of Veterans' Affairs established in KRS 40.300 to support the Kentucky state veterans' cemeteries, Kentucky state veterans' nursing homes, the Kentucky Homeless Veterans Program, and other programs which meet the needs of veterans of the Armed Forces; and***" and

On page 60, line 16, by deleting "*6. Twenty-five percent (25%)*" and inserting "*7. Twenty-two percent (22%)*" in lieu thereof; and

On page 60, line 21, by deleting "*7. Fifteen percent (15%)*" and inserting "***8. Five percent (5%)***" in lieu thereof.

Floor Amendment No. 5 to **SB 139**, by Representative Westrom:

On page 11, line 14, after "***the***" by deleting "***transferee***" and inserting "***licensee***" in lieu thereof.

Floor Amendment No. 3 to **SB 41**, by Representative Treesh:

On page 1, line 23, after "***coverage.***", by inserting the following:

"***All short-term nursing home insurance policies shall include the following statement on the declarations page: "Short-term nursing home insurance policies are not federally tax-qualified long-term care insurance contracts under Section 7702B(b) of the Internal Revenue Code of 1986 as amended, and benefits received under short-term nursing home insurance policies may be taxable as income.""***.

Floor Amendment No. 7 to the Committee Substitute to **HB 768**, by Representative Treesh:

On page 60, beginning on line 5 after "***2.***" and ending on line 13, by deleting the language in its entirety; and

On page 60, line 14, by deleting "***5.***"; and

On page 60, beginning on line 16 and ending on line 20 by deleting the language in its entirety; and

On page 60, line 21, by deleting "***7.***" and inserting in lieu thereof "***3.***"; and

On page 117, after line 5, by inserting the following:

"SECTION 65. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

(1) For tax assessments beginning on or after January 1, 2004, every person owing ad valorem taxes on a motor vehicle shall be granted a twenty dollar ($20) nonrefundable credit against the person's total tax bill.

(2) The county clerk shall attribute the credit granted under subsection (1) of this section to the state portion of the tax. If the amount of the credit exceeds the state tax due, the county clerk shall debit the state's account for the difference. Local tax revenues shall not be reduced or affected by the credit.

Section 66. KRS 134.805 is amended to read as follows:

(1) The county clerk shall be allowed by the Revenue Cabinet, for collecting state ad valorem taxes on motor vehicles, a commission of four percent (4%) on state taxes collected. ***Tax credits applied to paid tax bills under Section 65 of this Act shall be deemed collected taxes under this subsection, so that the credits shall not reduce the base on which the commission is calculated.***

(2) The county clerk shall be allowed by the county treasurer, for collecting county and special district ad valorem taxes on motor vehicles, a commission of four percent (4%) on county and special taxes collected.

(3) The county clerk shall be allowed a commission of four percent (4%) of the school district taxes collected.

(4) Effective January 1, 1985, the county clerk shall be allowed a commission of four percent (4%) of the city or urban-county government taxes collected.

(5) (a) For the convenience and benefit of the Commonwealth's citizens and to maximize ad valorem tax collections, county clerks shall be responsible for causing the preparation and mailing of a notice of ad valorem taxes due to the January 1 owner of record of each motor vehicle no later than one (1) month prior to the ad valorem tax and registration renewal due date in each calendar year.

(b) When a vehicle is transferred in any year before the ad valorem taxes on that vehicle have been paid, a notice of taxes due shall be sent within ten (10) working days after the date of transfer or notice of transfer to the owner of record as of January 1 of that year.

(c) When ad valorem taxes on a vehicle become delinquent for sixty (60) days, as defined by KRS 134.810, a second notice shall be sent within ten (10) working days to the January 1 owner of record. The notice shall inform the delinquent owner of the lien provisions provided by KRS 134.810 on all vehicles owned or acquired by the owner of the vehicle at the time the tax liability arose.

(d) These notices shall be calculated, prepared, and mailed first class on behalf of county clerks by the AVIS. Nonreceipt of the notices required herein shall not constitute any defense against applicable penalty, interest, lien fees, or costs recovery.

Section 67. KRS 134.815 is amended to read as follows:

(1) The county clerk shall, by the tenth of each month, report under oath and pay to the state, county, city, urban-county government, school, and special taxing districts all ad valorem taxes on motor vehicles collected by him for the preceding month, less the collection fee of the county clerk, ***and less the debits to the state account attributable to the credit granted under Section 65 of this Act, both of*** which shall be deducted before payment to the depository. The county clerk shall be required to deposit state collections in a manner consistent with procedures established by the cabinet for the prompt payment to the state of other state tax moneys collected by the county clerk.

(2) Any county clerk who fails to pay over any taxes collected by him on motor vehicles as required by subsection (1) of this section shall be required to pay a penalty of one percent (1%) for each thirty (30) day period or fraction thereof, plus interest at the legal rate per annum of such taxes.

(3) The county clerk may be granted an extension, not to exceed fifteen (15) days, for filing the monthly report to each district required by this section.

(4) In the event a motor vehicle is registered in a county other than that in which the vehicle had a taxable situs as of the most recent assessment date, the county clerk in the new county of registration shall be charged with collecting the ad valorem taxes due for the state, county, city, urban-county government, school and special tax districts in which the vehicle had situs. The county clerk making such collections shall receive commissions on collections as set out for other collections on motor vehicles.

(5) All moneys collected under this section by a county clerk on motor vehicles which had a taxable situs in another county shall be reported and deposited with the state, after he has deducted the appropriate ***debits and*** commissions due from these collections, and such collections shall be distributed to the proper tax district.

(6) The cabinet shall provide procedures governing receipt and disbursement of all moneys collected under subsections (4) and (5) of this section.

Section 68. KRS 134.830 is amended to read as follows:

The collection of ad valorem taxes on motorboats shall be administered in the same manner and according to the same procedures provided for motor vehicles in KRS 134.800 to 134.820. ***The credit granted in Section 65 of this Act shall not apply to motorboats.***"; and

By renumbering subsequent sections to conform.

Floor Amendment No. 8 Title to the Committee Substitute to **HB 768**, by Representative Treesh:

By amending the title to read as follows: "AN ACT relating to revenues, making an appropriation therefor, and declaring an emergency.".

Floor Amendment No. 11 to the Committee Substitute to **SB 2**, by Representative Marzian:

On page 1, line 6, after "***prevention***" by deleting "***and education***";

On page 2, line 15, after "[~~11.~~]" by deleting all remaining new text through "***15.***" on line 20;

On page 2, line 22, by deleting "***16***" and inserting "***15***" in lieu thereof;

On page 2, line 24, by deleting "***17***" and inserting "***16***" in lieu thereof;

On page 2, line 26, by deleting "***18***" and inserting "***17***" in lieu thereof;

On page 3, line 1, by deleting "***19***" and inserting "***18***" in lieu thereof;

On page 3, line 5, by deleting all text on line 5 through line 10 and inserting the following in lieu thereof:

"***19. One (1) representative from Kentucky Youth Advocates;***";

On page 3, line 11, by deleting "***22***" and inserting "***20***" in lieu thereof;

On page 3 line 13, by deleting "***23***" and inserting "***21***" in lieu thereof and after "***represent***" by deleting "***one (1)***" and inserting "***a separate***" in lieu thereof;

On page 3, line 18, by deleting "***24***" and inserting "***22***" in lieu thereof;

On page 4, line 12, after "quorum" by inserting "***consisting of a simple majority***" and deleting "***sixteen (16)***";

On page 5, line 14, after "(2)" by deleting all text through line 17 and by inserting in lieu thereof the following:

"Monitor the data and issues related to youth alcohol and tobacco access, smoking cessation and prevention, and substance abuse ***prevention*** policies***;***

(3) Monitor the[~~, their~~] impact ***of policies*** on state and local ***prevention*** programs, and their flexibility to adapt to the needs of local communities and ***prevention strategies***[~~service providers~~];

(4) Examine the impact of treatment policies, resources, and strategies on prevention strategies;";

On page 5, at the beginning of line 18, by inserting "***(5)***" and bracketing and striking through "(3)";

On page 5, lines 20 and 21, after "***prevention***" by deleting "***and education***";

On page 5, at the beginning of line 25, by inserting "***(6)***" and bracketing and striking through "(4)";

On page 5, line 26, after "prevention", by deleting "***and***";

On page 5, line 26, by deleting the closing bracket;

On page 5, line 27, by striking through "education" and by removing the opening bracket before the comma;

On page 6, at the beginning of line 1, by inserting "*(7)*" and bracketing and striking through "(5)";

On page 6, at the beginning of line 3, by inserting "*(8)*" and bracketing and striking through "(6)";

On page 6, line 6, after "***prevention***" by deleting "***and education***";

On page 6, at the beginning of line 9, by inserting "*(9)*" and bracketing and striking through "(7)";

On page 6, at the beginning of line 10, by inserting "*(10)*" and bracketing and striking through "(8)";

On page 6, at the beginning of line 12, by inserting "*(11)*" and bracketing and striking through "(9)";

On page 6, at the beginning of line 13, by inserting "*(12)*" and bracketing and striking through "(10)";

On page 6, at the beginning of line 20, by inserting "*(13)*" and bracketing and striking through "(11)";

On page 6, line 21, after "for" by deleting "***prevention***";

On page 6 line 23, after "***prevention***" by deleting "***and education***";

On page 6, at the beginning of line 24, by inserting "*(14)*" and bracketing and striking through "(12)";

On page 6, line 25, after "prevention" by placing an opening bracket before "and" and striking through "and", by deleting "***education***", and by removing the opening bracket before "treatment";

On page 6, at the beginning of line 26, by inserting "*(15)*" and bracketing and striking through "(13)";

On page 6, line 27, after "***prevention***" by deleting "***and education***";

On page 7, at the beginning of line 1, by inserting "*(16)*" and bracketing and striking through "(14)";

On page 7, at the beginning of line 5, by inserting "*(17)*" and bracketing and striking through "(15)";

On page 7, at the beginning of line 11, by inserting "*(18)*" and bracketing and striking through "(16)";

On page 7, at the beginning of line 18, by inserting "*(19)*" and bracketing and striking through "(17)";

On page 7, at the beginning of line 23, by inserting "*(20)*" and bracketing and striking through "(18)";

On page 7, at the beginning of line 27, by inserting "*(21)*" and bracketing and striking through "(19)";

On page 8, by deleting all text on line 4 through line 6;

On page 8, line 7, by deleting "*21*" and inserting "*22*" in lieu thereof;

On page 8, line 9, by deleting "*22*" and inserting "*23*" in lieu thereof;

On page 8, line 23, after the second use of "prevention" by deleting "***and education***";

On page 8, line 25 and 26, after "***prevention***" by deleting "***and education programs***" and inserting "***strategies***" in lieu thereof;

On page 8, lines 26 and 27, after "***prevention***" by deleting "***and education***";

On page 8, line 27, after "programs" by inserting "***and strategies***";

On page 9, line 1, after "***prevention***" by deleting "***and education programs***" and by placing a closing bracket after the word "service" and by removing the closing bracket and strikethroughs from the word "providers";

On page 9, line 22, by removing all new text through line 24;

On page 9, line 24, by removing brackets and strikethroughs from the word "promote";

On page 9, line 25, after "***prevention***" by deleting "***and education***";

On page 10, between lines 6 and 7, by inserting the following:

"***(5) To carry out the provisions of this section related to substance abuse prevention strategies, the local boards shall consult in their respective areas with the regional planning councils established under KRS 210.506.***";

On page 13, line 6, after "system", by inserting "***for promoting mental health and treating mental illness, alcohol and other drug disorders, and dual diagnoses,***";

On page 14, line 5, before "services" by inserting "***treatment***";

On page 14, line 7, after "***for***" by inserting "***promoting mental health,***";

On page 14, line 7, after "***awareness***", by inserting "***,***";

On page 14, line 14, before "needs" by inserting "***treatment***";

On page 15, line 6, after "***Services***" by deleting "***and***", inserting "***,***" in lieu thereof, and after "***commission***" by inserting "***, and all members of the commission***";

On page 15, line 13, after "***provision of***" by deleting "***prevention and***" and inserting in lieu thereof "***programs promoting mental health and for***";

On page 15, line 14, after "***mental***" by deleting "***health***" and inserting "***illness***" in lieu thereof;

On page 16, line 12, before "***services***" by inserting "***treatment***";

On page 16, line 24, after "***professional***" by inserting "***treatment***";

On page 17, line 16, after "and" by inserting "*mental health*";

On page 17, by deleting all new text on lines 20 through 24;

On page 18, line 11, after "*KRS 12.334*" by inserting the following:

"*; and*

(h) To carry out the provisions of the section related to substance abuse treatment strategies, the regional planning councils shall consult the local boards in their areas established by KRS 12.334";

On page 20, line 5, after "*any*" by inserting "*substance abuse treatment*"; and

On page 22, line 2, after "*KY-ASAP*" by inserting "*and all other members of the board*".

Floor Amendment No. 6 to **SB 139**, by Representative Nesler:

On page 18, line 8, after "least" by deleting "two (2) years" and inserting "one (1) year" in lieu thereof; and

On page 18, line 13, after "least" by deleting "two (2) years" and inserting "one (1) year" in lieu thereof.

Floor Amendment No. 1 to **SB 97**, by Representative Wilkey:

On page 2, lines 24 to 26, delete "*If the court does so, it shall notify the county or Commonwealth's attorney, as appropriate, of an opportunity for a response to the expungement motion.*" and insert in lieu thereof "*If the court does so, it shall notify the petitioner who sought the emergency protective order of the motion filing and the hearing date, and the court shall notify the county or Commonwealth's attorney, as appropriate, of an opportunity for a response to the expungement motion.*"

Floor Amendment No. 7 to **SB 139**, by Representative Nesler:

On page 18, lines 19 and 20, after "Act", by deleting the following:"unless the board, in its discretion and on a case by case basis, waives the examination requirement".

Floor Amendment No. 10 Title to **HB 768**, by Representative Marcotte:

Amend the title to read "AN ACT proposing an amendment to Section 226 of the Constitution of Kentucky relating to lotteries.".

Floor Amendment No. 9 to the Committee Substitute to **HB 768**, by Representative Marcotte:

On page 1, line 1, to page 117, line 16, delete all language and insert the following in lieu thereof:

"Section 1. It is proposed that Section 226 of the Constitution of Kentucky be amended to read as follows:

(1) The General Assembly may establish a Kentucky state lottery and may establish a state lottery to be conducted in cooperation with other states. Any lottery so established shall be operated by or on behalf of the Commonwealth of Kentucky.

(2) The General Assembly may by general law permit charitable lotteries and charitable gift enterprises and, if it does so, it shall:

(a) Define what constitutes a charity or charitable organization;

(b) Define the types of charitable lotteries and charitable gift enterprises which may be engaged in;

(c) Set standards for the conduct of charitable lotteries and charitable gift enterprises by charitable organizations;

(d) Provide for means of accounting for the amount of money raised by lotteries and gift enterprises and for assuring its expenditure only for charitable purposes;

(e) Provide suitable penalties for violation of statutes relating to charitable lotteries and charitable gift enterprises; and

(f) Pass whatever other general laws the General Assembly deems necessary to assure the proper functioning, honesty, and integrity of charitable lotteries and charitable gift enterprises, and the charitable purposes for which the funds are expended.

(3) *The General Assembly may by general law permit the operation of video lottery terminals at racetracks, and, if it does so, shall:*

(a) Provide a means whereby the sense of the people of Kentucky shall be taken, prior to the institution of video lottery terminals at racetracks, whether video lottery terminals at racetracks shall be allowed by submission to the voters of this state for their ratification or rejection by a majority of the votes cast at a general election in such manner as shall be provided by law; and

(b) Pass general laws to ensure the proper functioning, honesty, and integrity of video lottery terminals at racetracks and the organizations conducting video lottery terminals at racetracks.

(4) Except as provided in this section, lotteries and gift enterprises are forbidden, and no privileges shall be granted for such purposes, and none shall be exercised, and no schemes for similar purposes shall be allowed. The General Assembly shall enforce this section by proper penalties. All lottery privileges or charters heretofore granted are revoked.

Section 1. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415."

Floor Amendment No. 1 to **HB 831**, by Representative Bather:

On page 1, by deleting lines 1 through 25; and

By deleting pages 2 through 44 in their entirety; and

On page 45, by deleting lines 1 and 2; and by inserting the following in lieu thereof:

"Plan HH831A01

Plan SH831A02

SECTION 1. KRS 5.228 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Twenty-eighth Representative District shall consist of the following territory:

				---CENSUS---		
COUNTY	***PREC***	***SEC***	***NAME***	***TRACT***	***BLCK***	***SECT***
JEFFERSON	***A108***		***PRECINCT 108 28 DISTRICT***			
JEFFERSON	***A111***		***PRECINCT 111 28 DISTRICT***			
JEFFERSON	***A113***		***PRECINCT 113 28 DISTRICT***			
JEFFERSON	***A114***		***PRECINCT 114 28 DISTRICT***			
JEFFERSON	***A115***		***PRECINCT 115 28 DISTRICT***			
JEFFERSON	***A118***		***PRECINCT 118 28 DISTRICT***			
JEFFERSON	***A119***		***PRECINCT 119 28 DISTRICT***	***012103***	***1000***	
JEFFERSON	***A119***		***PRECINCT 119 28 DISTRICT***	***012103***	***1001***	
JEFFERSON	***A119***		***PRECINCT 119 28 DISTRICT***	***012103***	***1002***	
JEFFERSON	***A119***		***PRECINCT 119 28 DISTRICT***	***012103***	***1003***	
JEFFERSON	***A119***		***PRECINCT 119 28 DISTRICT***	***012103***	***1004***	
JEFFERSON	***A119***		***PRECINCT 119 28 DISTRICT***	***012103***	***1006***	
JEFFERSON	***A119***		***PRECINCT 119 28 DISTRICT***	***012103***	***1007***	
JEFFERSON	***A119***		***PRECINCT 119 28 DISTRICT***	***012103***	***1008***	
JEFFERSON	***A119***		***PRECINCT 119 28 DISTRICT***	***012103***	***1009***	
JEFFERSON	***A119***		***PRECINCT 119 28 DISTRICT***	***012103***	***1010***	
JEFFERSON	***A119***		***PRECINCT 119 28 DISTRICT***	***012103***	***1011***	
JEFFERSON	***A119***		***PRECINCT 119 28 DISTRICT***	***012103***	***1012***	
JEFFERSON	***A119***		***PRECINCT 119 28 DISTRICT***	***012103***	***1013***	
JEFFERSON	***A119***		***PRECINCT 119 28 DISTRICT***	***012103***	***1014***	
JEFFERSON	***A119***		***PRECINCT 119 28 DISTRICT***	***012103***	***1015***	
JEFFERSON	***A119***		***PRECINCT 119 28 DISTRICT***	***012103***	***1016***	
JEFFERSON	***A119***		***PRECINCT 119 28 DISTRICT***	***012409***	***2012***	
JEFFERSON	***A119***		***PRECINCT 119 28 DISTRICT***	***012409***	***2013***	***0102***
JEFFERSON	***A119***		***PRECINCT 119 28 DISTRICT***	***012409***	***2015***	
JEFFERSON	***A121***		***PRECINCT 121 28 DISTRICT***	***012104***	***1000***	
JEFFERSON	***A121***		***PRECINCT 121 28 DISTRICT***	***012104***	***1001***	
JEFFERSON	***A121***		***PRECINCT 121 28 DISTRICT***	***012104***	***1002***	
JEFFERSON	***A121***		***PRECINCT 121 28 DISTRICT***	***012104***	***1003***	
JEFFERSON	***A121***		***PRECINCT 121 28 DISTRICT***	***012104***	***1004***	
JEFFERSON	***A121***		***PRECINCT 121 28 DISTRICT***	***012104***	***1005***	

JEFFERSON	*A121*		*PRECINCT 121 28 DISTRICT*	*012104*	*1006*	
JEFFERSON	*A121*		*PRECINCT 121 28 DISTRICT*	*012104*	*1007*	
JEFFERSON	*A121*		*PRECINCT 121 28 DISTRICT*	*012104*	*1008*	
JEFFERSON	*A121*		*PRECINCT 121 28 DISTRICT*	*012104*	*1009*	
JEFFERSON	*A121*		*PRECINCT 121 28 DISTRICT*	*012104*	*1010*	
JEFFERSON	*A121*		*PRECINCT 121 28 DISTRICT*	*012104*	*1011*	
JEFFERSON	*A121*		*PRECINCT 121 28 DISTRICT*	*012104*	*1012*	
JEFFERSON	*A121*		*PRECINCT 121 28 DISTRICT*	*012104*	*1013*	
JEFFERSON	*A121*		*PRECINCT 121 28 DISTRICT*	*012104*	*1014*	
JEFFERSON	*A121*		*PRECINCT 121 28 DISTRICT*	*012104*	*1015*	
JEFFERSON	*A121*		*PRECINCT 121 28 DISTRICT*	*012104*	*1016*	
JEFFERSON	*A121*		*PRECINCT 121 28 DISTRICT*	*012104*	*1017*	
JEFFERSON	*A121*		*PRECINCT 121 28 DISTRICT*	*012104*	*1018*	
JEFFERSON	*A121*		*PRECINCT 121 28 DISTRICT*	*012104*	*1019*	
JEFFERSON	*A121*		*PRECINCT 121 28 DISTRICT*	*012104*	*1020*	
JEFFERSON	*A121*		*PRECINCT 121 28 DISTRICT*	*012104*	*1021*	
JEFFERSON	*A121*		*PRECINCT 121 28 DISTRICT*	*012104*	*1022*	
JEFFERSON	*A121*		*PRECINCT 121 28 DISTRICT*	*012104*	*2004*	*0202*
JEFFERSON	*A121*		*PRECINCT 121 28 DISTRICT*	*012104*	*2005*	
JEFFERSON	*A121*		*PRECINCT 121 28 DISTRICT*	*012104*	*2007*	
JEFFERSON	*A122*		*PRECINCT 122 28 DISTRICT*			
JEFFERSON	*A123*		*PRECINCT 123 28 DISTRICT*			
JEFFERSON	*A124*		*PRECINCT 124 28 DISTRICT*			
JEFFERSON	*A125*		*PRECINCT 125 28 DISTRICT*			
JEFFERSON	*A126*		*PRECINCT 126 28 DISTRICT*			
JEFFERSON	*A127*		*PRECINCT 127 28 DISTRICT*			
JEFFERSON	*A128*		*PRECINCT 128 28 DISTRICT*			
JEFFERSON	*A129*		*PRECINCT 129 28 DISTRICT*			
JEFFERSON	*A130*		*PRECINCT 130 28 DISTRICT*			
JEFFERSON	*A131*		*PRECINCT 131 28 DISTRICT*			
JEFFERSON	*A132*		*PRECINCT 132 28 DISTRICT*			
JEFFERSON	*A134*		*PRECINCT 134 28 DISTRICT*			
JEFFERSON	*B117*		*PRECINCT 117 29 DISTRICT*			
JEFFERSON	*J127*		*PRECINCT 127 38 DISTRICT*			
JEFFERSON	*J128*		*PRECINCT 128 38 DISTRICT*			
JEFFERSON	*J129*		*PRECINCT 129 38 DISTRICT*			
JEFFERSON	*O132*		*PRECINCT 132 44 DISTRICT*			

SECTION 2. KRS 5.229 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Twenty-ninth Representative District shall consist of the following territory:

				---CENSUS---		
COUNTY	*PREC*	*SEC*	*NAME*	*TRACT*	*BLCK*	*SECT*
JEFFERSON	*B119*		*PRECINCT 119 29 DISTRICT*	*012106*	*1000*	*0102*
JEFFERSON	*B119*		*PRECINCT 119 29 DISTRICT*	*012106*	*2000*	
JEFFERSON	*B119*		*PRECINCT 119 29 DISTRICT*	*012106*	*2004*	
JEFFERSON	*B119*		*PRECINCT 119 29 DISTRICT*	*012106*	*2009*	
JEFFERSON	*B119*		*PRECINCT 119 29 DISTRICT*	*012106*	*2010*	
JEFFERSON	*B119*		*PRECINCT 119 29 DISTRICT*	*012106*	*3002*	
JEFFERSON	*B119*		*PRECINCT 119 29 DISTRICT*	*012106*	*3003*	
JEFFERSON	*B119*		*PRECINCT 119 29 DISTRICT*	*012106*	*3004*	

JEFFERSON	*B119*	*PRECINCT 119 29 DISTRICT*	*012106*	*3005*	
JEFFERSON	*B119*	*PRECINCT 119 29 DISTRICT*	*012106*	*3006*	
JEFFERSON	*B119*	*PRECINCT 119 29 DISTRICT*	*012106*	*3007*	
JEFFERSON	*B119*	*PRECINCT 119 29 DISTRICT*	*012106*	*3008*	
JEFFERSON	*B119*	*PRECINCT 119 29 DISTRICT*	*012106*	*3010*	
JEFFERSON	*B119*	*PRECINCT 119 29 DISTRICT*	*012106*	*4009*	
JEFFERSON	*B119*	*PRECINCT 119 29 DISTRICT*	*012106*	*4010*	
JEFFERSON	*B119*	*PRECINCT 119 29 DISTRICT*	*012106*	*4011*	
JEFFERSON	*B119*	*PRECINCT 119 29 DISTRICT*	*012106*	*4012*	
JEFFERSON	*B119*	*PRECINCT 119 29 DISTRICT*	*012107*	*2000*	
JEFFERSON	*B119*	*PRECINCT 119 29 DISTRICT*	*012107*	*3001*	
JEFFERSON	*B124*	*PRECINCT 124 29 DISTRICT*			
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012003*	*2026*	
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012003*	*2029*	
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012003*	*2030*	
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012003*	*2031*	
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012003*	*2032*	
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012003*	*2033*	
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012003*	*2034*	
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012003*	*2035*	
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012003*	*2036*	
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012003*	*2038*	
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012003*	*3008*	*0104*
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012003*	*3008*	*0404*
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012107*	*2002*	
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012107*	*2003*	
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012107*	*2005*	
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012107*	*2006*	
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012107*	*2007*	
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012107*	*2008*	
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012107*	*2009*	
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012107*	*2010*	
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012107*	*3002*	
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012107*	*3003*	*0808*
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012107*	*3004*	
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012107*	*3005*	*0202*
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012107*	*3006*	
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012107*	*3007*	
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012107*	*3008*	*0202*
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012107*	*3010*	*0203*
JEFFERSON	*B125*	*PRECINCT 125 29 DISTRICT*	*012107*	*3022*	*0102*
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*2000*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*2001*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*2009*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*012001*	*2001*	*0102*
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*012001*	*2033*	
JEFFERSON	*B130*	*PRECINCT 130 29 DISTRICT*			
JEFFERSON	*B131*	*PRECINCT 131 29 DISTRICT*			
JEFFERSON	*B134*	*PRECINCT 134 29 DISTRICT*			

JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2001*	*0202*
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2002*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2003*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2014*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2015*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2022*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012003*	*3000*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012003*	*3001*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012003*	*3006*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012003*	*3007*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012003*	*3008*	*0304*
JEFFERSON	*B146*	*PRECINCT 146 29 DISTRICT*			
JEFFERSON	*B149*	*PRECINCT 149 29 DIST*			
JEFFERSON	*D127*	*PRECINCT 127 31 DISTRICT*	*011110*	*1003*	*0103*
JEFFERSON	*D127*	*PRECINCT 127 31 DISTRICT*	*011511*	*2010*	*0102*
JEFFERSON	*D127*	*PRECINCT 127 31 DISTRICT*	*011511*	*2011*	
JEFFERSON	*D127*	*PRECINCT 127 31 DISTRICT*	*011511*	*2012*	
JEFFERSON	*D127*	*PRECINCT 127 31 DISTRICT*	*011511*	*2013*	
JEFFERSON	*D127*	*PRECINCT 127 31 DISTRICT*	*011511*	*2014*	
JEFFERSON	*D127*	*PRECINCT 127 31 DISTRICT*	*011511*	*2015*	
JEFFERSON	*D127*	*PRECINCT 127 31 DISTRICT*	*011511*	*2016*	
JEFFERSON	*D127*	*PRECINCT 127 31 DISTRICT*	*011511*	*2017*	
JEFFERSON	*D127*	*PRECINCT 127 31 DISTRICT*	*011511*	*2018*	
JEFFERSON	*D127*	*PRECINCT 127 31 DISTRICT*	*011511*	*2019*	
JEFFERSON	*D127*	*PRECINCT 127 31 DISTRICT*	*011511*	*2020*	*0102*
JEFFERSON	*D127*	*PRECINCT 127 31 DISTRICT*	*011511*	*2024*	*0102*
JEFFERSON	*D127*	*PRECINCT 127 31 DISTRICT*	*011511*	*2025*	
JEFFERSON	*D127*	*PRECINCT 127 31 DISTRICT*	*011511*	*2026*	
JEFFERSON	*D127*	*PRECINCT 127 31 DISTRICT*	*011511*	*2027*	
JEFFERSON	*F110*	*PRECINCT 110 33 DISTRICT*			
JEFFERSON	*F111*	*PRECINCT 111 33 DISTRICT*			
JEFFERSON	*F112*	*PRECINCT 112 33 DISTRICT*			
JEFFERSON	*F113*	*PRECINCT 113 33 DISTRICT*			
JEFFERSON	*F128*	*PRECINCT 128 33 DISTRICT*	*011509*	*3004*	
JEFFERSON	*F128*	*PRECINCT 128 33 DISTRICT*	*011510*	*1000*	*0303*
JEFFERSON	*F128*	*PRECINCT 128 33 DISTRICT*	*011510*	*1001*	
JEFFERSON	*F128*	*PRECINCT 128 33 DISTRICT*	*011510*	*2000*	
JEFFERSON	*F128*	*PRECINCT 128 33 DISTRICT*	*011510*	*2001*	
JEFFERSON	*F128*	*PRECINCT 128 33 DISTRICT*	*011510*	*2002*	
JEFFERSON	*F128*	*PRECINCT 128 33 DISTRICT*	*011510*	*2003*	
JEFFERSON	*F128*	*PRECINCT 128 33 DISTRICT*	*011510*	*2004*	*0102*
JEFFERSON	*F132*	*PRECINCT 132 33 DISTRICT*			
JEFFERSON	*F133*	*PRECINCT 133 33 DISTRICT*			
JEFFERSON	*F137*	*PRECINCT 137 33 DISTRICT*	*010307*	*1003*	*0202*
JEFFERSON	*F137*	*PRECINCT 137 33 DISTRICT*	*010307*	*1008*	*0202*
JEFFERSON	*F137*	*PRECINCT 137 33 DISTRICT*	*010307*	*1009*	
JEFFERSON	*F137*	*PRECINCT 137 33 DISTRICT*	*010307*	*1010*	*0202*
JEFFERSON	*F137*	*PRECINCT 137 33 DISTRICT*	*010307*	*1011*	*0102*
JEFFERSON	*F137*	*PRECINCT 137 33 DISTRICT*	*010307*	*1016*	*0202*

JEFFERSON	*F137*		*PRECINCT 137 33 DISTRICT*	*010307*	*1017*	
JEFFERSON	*F139*		*PRECINCT 139 33 DIST*			
JEFFERSON	*F141*		*PRECINCT 141 33 DIST*			
JEFFERSON	*F143*		*PRECINCT 143 33 DISTRICT*	*011511*	*2000*	
JEFFERSON	*F143*		*PRECINCT 143 33 DISTRICT*	*011511*	*2001*	
JEFFERSON	*F143*		*PRECINCT 143 33 DISTRICT*	*011511*	*2002*	
JEFFERSON	*F143*		*PRECINCT 143 33 DISTRICT*	*011511*	*2010*	*0202*
JEFFERSON	*F143*		*PRECINCT 143 33 DISTRICT*	*011511*	*2020*	*0202*
JEFFERSON	*F143*		*PRECINCT 143 33 DISTRICT*	*011511*	*2021*	
JEFFERSON	*F143*		*PRECINCT 143 33 DISTRICT*	*011511*	*2022*	
JEFFERSON	*F143*		*PRECINCT 143 33 DISTRICT*	*011511*	*2023*	
JEFFERSON	*F143*		*PRECINCT 143 33 DISTRICT*	*011511*	*2024*	*0202*
JEFFERSON	*F146*		*PRECINCT 146 33 DISTRICT*			
JEFFERSON	*F147*		*PRECINCT 147 33 DISTRICT*			
JEFFERSON	*O115*		*PRECINCT 115 46 DISTRICT*			
JEFFERSON	*O117*		*PRECINCT 117 46 DISTRICT*			
JEFFERSON	*O119*		*PRECINCT 119 46 DISTRICT*			
JEFFERSON	*O120*		*PRECINCT 120 46 DISTRICT*			
JEFFERSON	*O125*		*PRECINCT 125 46 DISTRICT*			
JEFFERSON	*O126*		*PRECINCT 126 46 DIST*			

SECTION 3. KRS 5.230 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Thirtieth Representative District shall consist of the following territory:

				---CENSUS---		
COUNTY	*PREC*	*SEC*	*NAME*	*TRACT*	*BLCK*	*SECT*
JEFFERSON	*B132*		*PRECINCT 132 29 DISTRICT*			
JEFFERSON	*B133*		*PRECINCT 133 29 DISTRICT*			
JEFFERSON	*C106*		*PRECINCT 106 30 DISTRICT*	*011002*	*2000*	
JEFFERSON	*C106*		*PRECINCT 106 30 DISTRICT*	*011002*	*2001*	
JEFFERSON	*C106*		*PRECINCT 106 30 DISTRICT*	*011002*	*2002*	
JEFFERSON	*C106*		*PRECINCT 106 30 DISTRICT*	*011002*	*2003*	
JEFFERSON	*C106*		*PRECINCT 106 30 DISTRICT*	*011002*	*2004*	
JEFFERSON	*C106*		*PRECINCT 106 30 DISTRICT*	*011002*	*2005*	
JEFFERSON	*C106*		*PRECINCT 106 30 DISTRICT*	*011002*	*2006*	
JEFFERSON	*C106*		*PRECINCT 106 30 DISTRICT*	*011002*	*2007*	
JEFFERSON	*C106*		*PRECINCT 106 30 DISTRICT*	*011002*	*2008*	
JEFFERSON	*C106*		*PRECINCT 106 30 DISTRICT*	*011002*	*2009*	
JEFFERSON	*C106*		*PRECINCT 106 30 DISTRICT*	*011002*	*2010*	
JEFFERSON	*C106*		*PRECINCT 106 30 DISTRICT*	*011002*	*2011*	
JEFFERSON	*C106*		*PRECINCT 106 30 DISTRICT*	*011002*	*2012*	
JEFFERSON	*C106*		*PRECINCT 106 30 DISTRICT*	*011002*	*2013*	
JEFFERSON	*C106*		*PRECINCT 106 30 DISTRICT*	*011002*	*2014*	
JEFFERSON	*C106*		*PRECINCT 106 30 DISTRICT*	*011002*	*2018*	
JEFFERSON	*C106*		*PRECINCT 106 30 DISTRICT*	*011002*	*2019*	
JEFFERSON	*C106*		*PRECINCT 106 30 DISTRICT*	*011002*	*3000*	
JEFFERSON	*C106*		*PRECINCT 106 30 DISTRICT*	*011002*	*3001*	
JEFFERSON	*C106*		*PRECINCT 106 30 DISTRICT*	*011002*	*3007*	*0202*
JEFFERSON	*C115*		*PRECINCT 115 30 DISTRICT*	*011508*	*1000*	
JEFFERSON	*C115*		*PRECINCT 115 30 DISTRICT*	*011508*	*1001*	
JEFFERSON	*C115*		*PRECINCT 115 30 DISTRICT*	*011508*	*1002*	

JEFFERSON	C115	PRECINCT 115 30 DISTRICT	011508	1003	
JEFFERSON	C115	PRECINCT 115 30 DISTRICT	011508	1004	
JEFFERSON	C115	PRECINCT 115 30 DISTRICT	011508	1005	
JEFFERSON	C121	PRECINCT 121 30 DISTRICT			
JEFFERSON	C122	PRECINCT 122 30 DISTRICT			
JEFFERSON	C123	PRECINCT 123 30 DISTRICT			
JEFFERSON	C124	PRECINCT 124 30 DISTRICT			
JEFFERSON	C127	PRECINCT 127 30 DISTRICT			
JEFFERSON	C128	PRECINCT 128 30 DISTRICT			
JEFFERSON	C129	PRECINCT 129 30 DISTRICT			
JEFFERSON	C130	PRECINCT 130 30 DISTRICT			
JEFFERSON	C131	PRECINCT 131 30 DISTRICT			
JEFFERSON	D113	PRECINCT 113 31 DISTRICT			
JEFFERSON	D130	PRECINCT 130 31 DISTRICT			
JEFFERSON	D131	PRECINCT 131 31 DISTRICT			
JEFFERSON	F116	PRECINCT 116 33 DISTRICT			
JEFFERSON	F118	PRECINCT 118 33 DISTRICT			
JEFFERSON	F119	PRECINCT 119 33 DISTRICT			
JEFFERSON	F120	PRECINCT 120 33 DISTRICT			
JEFFERSON	F121	PRECINCT 121 33 DISTRICT			
JEFFERSON	F122	PRECINCT 122 33 DISTRICT			
JEFFERSON	F125	PRECINCT 125 33 DISTRICT			
JEFFERSON	F127	PRECINCT 127 33 DISTRICT			
JEFFERSON	F128	PRECINCT 128 33 DISTRICT	011509	3000	
JEFFERSON	F128	PRECINCT 128 33 DISTRICT	011509	3001	
JEFFERSON	F128	PRECINCT 128 33 DISTRICT	011509	3002	
JEFFERSON	F128	PRECINCT 128 33 DISTRICT	011509	3003	
JEFFERSON	F129	PRECINCT 129 33 DISTRICT			
JEFFERSON	F131	PRECINCT 131 33 DISTRICT			
JEFFERSON	Q107	PRECINCT 107 46 DISTRICT	011505	1004	0303
JEFFERSON	Q107	PRECINCT 107 46 DISTRICT	011505	1005	
JEFFERSON	Q107	PRECINCT 107 46 DISTRICT	011505	1006	
JEFFERSON	Q107	PRECINCT 107 46 DISTRICT	011505	1008	
JEFFERSON	Q107	PRECINCT 107 46 DISTRICT	011508	1999	
JEFFERSON	Q107	PRECINCT 107 46 DISTRICT	011508	2000	0202
JEFFERSON	Q107	PRECINCT 107 46 DISTRICT	011508	2001	
JEFFERSON	Q107	PRECINCT 107 46 DISTRICT	011508	2002	
JEFFERSON	Q107	PRECINCT 107 46 DISTRICT	011508	2003	
JEFFERSON	Q107	PRECINCT 107 46 DISTRICT	011508	2004	
JEFFERSON	Q107	PRECINCT 107 46 DISTRICT	011508	2010	0202
JEFFERSON	Q107	PRECINCT 107 46 DISTRICT	011508	2011	
JEFFERSON	Q107	PRECINCT 107 46 DISTRICT	011508	2012	
JEFFERSON	Q107	PRECINCT 107 46 DISTRICT	011508	2013	
JEFFERSON	Q107	PRECINCT 107 46 DISTRICT	011508	2998	
JEFFERSON	Q107	PRECINCT 107 46 DISTRICT	011508	2999	
JEFFERSON	Q107	PRECINCT 107 46 DISTRICT	011508	3013	
JEFFERSON	Q109	PRECINCT 109 46 DISTRICT			

SECTION 4. KRS 5.231 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Thirty-first Representative District shall consist of the following territory:

				---CENSUS---		
COUNTY	*PREC*	*SEC*	*NAME*	*TRACT*	*BLCK*	*SECT*
JEFFERSON	*D101*		*PRECINCT 101 31 DISTRICT*	*010500*	*3000*	
JEFFERSON	*D101*		*PRECINCT 101 31 DISTRICT*	*010500*	*3001*	
JEFFERSON	*D101*		*PRECINCT 101 31 DISTRICT*	*010500*	*3002*	
JEFFERSON	*D101*		*PRECINCT 101 31 DISTRICT*	*010500*	*3031*	
JEFFERSON	*D101*		*PRECINCT 101 31 DISTRICT*	*010500*	*3032*	
JEFFERSON	*D101*		*PRECINCT 101 31 DISTRICT*	*010500*	*4000*	
JEFFERSON	*D101*		*PRECINCT 101 31 DISTRICT*	*010500*	*4001*	
JEFFERSON	*D101*		*PRECINCT 101 31 DISTRICT*	*010500*	*4002*	
JEFFERSON	*D101*		*PRECINCT 101 31 DISTRICT*	*010500*	*4003*	*0202*
JEFFERSON	*D101*		*PRECINCT 101 31 DISTRICT*	*010500*	*4004*	
JEFFERSON	*D101*		*PRECINCT 101 31 DISTRICT*	*010500*	*4009*	
JEFFERSON	*D101*		*PRECINCT 101 31 DISTRICT*	*010500*	*4013*	
JEFFERSON	*D101*		*PRECINCT 101 31 DISTRICT*	*010500*	*4014*	
JEFFERSON	*D101*		*PRECINCT 101 31 DISTRICT*	*010500*	*4016*	
JEFFERSON	*D101*		*PRECINCT 101 31 DISTRICT*	*010500*	*4017*	
JEFFERSON	*D104*		*PRECINCT 104 31 DISTRICT*			
JEFFERSON	*D105*		*PRECINCT 105 31 DISTRICT*			
JEFFERSON	*D106*		*PRECINCT 106 31 DISTRICT*			
JEFFERSON	*D108*		*PRECINCT 108 31 DISTRICT*			
JEFFERSON	*D109*		*PRECINCT 109 31 DISTRICT*			
JEFFERSON	*D110*		*PRECINCT 110 31 DISTRICT*			
JEFFERSON	*D114*		*PRECINCT 114 31 DISTRICT*			
JEFFERSON	*D115*		*PRECINCT 115 31 DISTRICT*			
JEFFERSON	*D116*		*PRECINCT 116 31 DISTRICT*			
JEFFERSON	*D117*		*PRECINCT 117 31 DISTRICT*			
JEFFERSON	*D120*		*PRECINCT 120 31 DISTRICT*			
JEFFERSON	*D121*		*PRECINCT 121 31 DISTRICT*			
JEFFERSON	*D122*		*PRECINCT 122 31 DISTRICT*			
JEFFERSON	*D126*		*PRECINCT 126 31 DISTRICT*			
JEFFERSON	*D127*		*PRECINCT 127 31 DISTRICT*	*011110*	*1011*	
JEFFERSON	*D127*		*PRECINCT 127 31 DISTRICT*	*011511*	*1009*	*0102*
JEFFERSON	*D127*		*PRECINCT 127 31 DISTRICT*	*011511*	*1011*	
JEFFERSON	*D127*		*PRECINCT 127 31 DISTRICT*	*011511*	*1012*	
JEFFERSON	*D127*		*PRECINCT 127 31 DISTRICT*	*011511*	*1013*	
JEFFERSON	*D127*		*PRECINCT 127 31 DISTRICT*	*011511*	*1014*	
JEFFERSON	*D127*		*PRECINCT 127 31 DISTRICT*	*011511*	*1015*	
JEFFERSON	*D127*		*PRECINCT 127 31 DISTRICT*	*011511*	*1016*	
JEFFERSON	*D127*		*PRECINCT 127 31 DISTRICT*	*011511*	*1025*	*0202*
JEFFERSON	*D127*		*PRECINCT 127 31 DISTRICT*	*011511*	*1026*	
JEFFERSON	*D127*		*PRECINCT 127 31 DISTRICT*	*011511*	*2004*	*0103*
JEFFERSON	*D127*		*PRECINCT 127 31 DISTRICT*	*011511*	*2008*	*0102*
JEFFERSON	*D127*		*PRECINCT 127 31 DISTRICT*	*011511*	*2009*	*0202*
JEFFERSON	*D129*		*PRECINCT 129 31 DISTRICT*			
JEFFERSON	*D132*		*PRECINCT 132 31 DISTRICT*			
JEFFERSON	*D133*		*PRECINCT 133 31 DISTRICT*			
JEFFERSON	*D134*		*PRECINCT 134 31 DISTRICT*			
JEFFERSON	*D135*		*PRECINCT 135 31 DIST*			

JEFFERSON	*D136*		*PRECINCT 136 31 DIST*			
JEFFERSON	*D137*		*PRECINCT 137 31 DIST*			
JEFFERSON	*D138*		*PRECINCT 138 31 DIST*			
JEFFERSON	*D139*		*PRECINCT 139 31 DISTRICT*			
JEFFERSON	*F117*		*PRECINCT 117 33 DISTRICT*			
JEFFERSON	*F130*		*PRECINCT 130 33 DISTRICT*			
JEFFERSON	*F140*		*PRECINCT 140 33 DIST*			
JEFFERSON	*F143*		*PRECINCT 143 33 DISTRICT*	*011511*	*2003*	*0202*
JEFFERSON	*F143*		*PRECINCT 143 33 DISTRICT*	*011511*	*2004*	*0303*
JEFFERSON	*F143*		*PRECINCT 143 33 DISTRICT*	*011511*	*2009*	*0102*

SECTION 5. KRS 5.232 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Thirty-second Representative District shall consist of the following territory:

				---CENSUS---		
COUNTY	*PREC*	*SEC*	*NAME*	*TRACT*	*BLCK*	*SECT*
JEFFERSON	*E104*		*PRECINCT 104 32 DISTRICT*			
JEFFERSON	*E139*		*PRECINCT 139 32 DISTRICT*			
JEFFERSON	*E142*		*PRECINCT 142 32 DISTRICT*			
JEFFERSON	*E143*		*PRECINCT 143 32 DISTRICT*			
JEFFERSON	*E144*		*PRECINCT 144 32 DISTRICT*			
JEFFERSON	*E145*		*PRECINCT 145 32 DISTRICT*			
JEFFERSON	*E146*		*PRECINCT 146 32 DISTRICT*			
JEFFERSON	*E147*		*PRECINCT 147 32 DISTRICT*			
JEFFERSON	*E148*		*PRECINCT 148 32 DISTRICT*			
JEFFERSON	*E149*		*PRECINCT 149 32 DISTRICT*			
JEFFERSON	*E150*		*PRECINCT 150 32 DISTRICT*			
JEFFERSON	*E151*		*PRECINCT 151 32 DISTRICT*			
JEFFERSON	*E152*		*PRECINCT 152 32 DISTRICT*			
JEFFERSON	*E154*		*PRECINCT 154 32 DISTRICT*			
JEFFERSON	*E155*		*PRECINCT 155 32 DISTRICT*			
JEFFERSON	*E157*		*PRECINCT 157 32 DISTRICT*			
JEFFERSON	*R105*		*PRECINCT 105 47 DISTRICT*			
JEFFERSON	*R106*		*PRECINCT 106 47 DISTRICT*			
JEFFERSON	*R111*		*PRECINCT 111 47 DISTRICT*			
JEFFERSON	*R117*		*PRECINCT 117 47 DISTRICT*			
JEFFERSON	*R118*		*PRECINCT 118 47 DISTRICT*			
JEFFERSON	*R119*		*PRECINCT 119 47 DISTRICT*			
JEFFERSON	*R120*		*PRECINCT 120 47 DISTRICT*			
JEFFERSON	*R121*		*PRECINCT 121 47 DISTRICT*			
JEFFERSON	*R126*		*PRECINCT 126 47 DISTRICT*			
JEFFERSON	*R131*		*PRECINCT 131 47 DISTRICT*			
JEFFERSON	*R132*		*PRECINCT 132 47 DISTRICT*	*010101*	*1000*	
JEFFERSON	*R132*		*PRECINCT 132 47 DISTRICT*	*010101*	*1003*	
JEFFERSON	*R132*		*PRECINCT 132 47 DISTRICT*	*010101*	*1004*	
JEFFERSON	*R132*		*PRECINCT 132 47 DISTRICT*	*010101*	*1005*	
JEFFERSON	*R132*		*PRECINCT 132 47 DISTRICT*	*010101*	*1006*	
JEFFERSON	*R132*		*PRECINCT 132 47 DISTRICT*	*010101*	*1007*	
JEFFERSON	*R132*		*PRECINCT 132 47 DISTRICT*	*010101*	*1008*	
JEFFERSON	*R132*		*PRECINCT 132 47 DISTRICT*	*010101*	*1009*	
JEFFERSON	*R132*		*PRECINCT 132 47 DISTRICT*	*010101*	*1010*	

JEFFERSON	*R132*	*PRECINCT 132 47 DISTRICT*	*010101*	*1011*
JEFFERSON	*R132*	*PRECINCT 132 47 DISTRICT*	*010101*	*1012*
JEFFERSON	*R132*	*PRECINCT 132 47 DISTRICT*	*010101*	*1013*
JEFFERSON	*R132*	*PRECINCT 132 47 DISTRICT*	*010101*	*1014*
JEFFERSON	*R135*	*PRECINCT 135 47 DISTRICT*		
JEFFERSON	*R139*	*PRECINCT 139 47 DISTRICT*		
JEFFERSON	*R141*	*PRECINCT 141 47 DISTRICT*		
JEFFERSON	*S120*	*PRECINCT 120 48 DISTRICT*		
JEFFERSON	*S121*	*PRECINCT 121 48 DISTRICT*		
JEFFERSON	*S138*	*PRECINCT 138 48 DISTRICT*		

SECTION 6. KRS 5.233 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Thirty-third Representative District shall consist of the following territory:

				---CENSUS---		
COUNTY	*PREC*	*SEC*	*NAME*	*TRACT*	*BLCK*	*SECT*
JEFFERSON	*D123*		*PRECINCT 123 31 DISTRICT*			
JEFFERSON	*D124*		*PRECINCT 124 31 DISTRICT*			
JEFFERSON	*D128*		*PRECINCT 128 31 DISTRICT*			
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1000*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1001*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1002*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1003*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1004*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1005*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1006*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1024*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1025*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1027*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1028*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1029*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1030*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1031*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1032*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1033*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1034*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1035*	
JEFFERSON	*F106*		*PRECINCT 106 33 DISTRICT*			
JEFFERSON	*F108*		*PRECINCT 108 33 DISTRICT*			
JEFFERSON	*F109*		*PRECINCT 109 33 DISTRICT*			
JEFFERSON	*F126*		*PRECINCT 126 33 DISTRICT*			
JEFFERSON	*F137*		*PRECINCT 137 33 DISTRICT*	*010306*	*1000*	
JEFFERSON	*F137*		*PRECINCT 137 33 DISTRICT*	*010306*	*1024*	*0102*
JEFFERSON	*F137*		*PRECINCT 137 33 DISTRICT*	*010306*	*1028*	
JEFFERSON	*F137*		*PRECINCT 137 33 DISTRICT*	*010306*	*1029*	
JEFFERSON	*F137*		*PRECINCT 137 33 DISTRICT*	*010306*	*1032*	
JEFFERSON	*F137*		*PRECINCT 137 33 DISTRICT*	*010306*	*1033*	
JEFFERSON	*F137*		*PRECINCT 137 33 DISTRICT*	*010306*	*1034*	
JEFFERSON	*F137*		*PRECINCT 137 33 DISTRICT*	*010306*	*1035*	
JEFFERSON	*F137*		*PRECINCT 137 33 DISTRICT*	*010306*	*1036*	
JEFFERSON	*F137*		*PRECINCT 137 33 DISTRICT*	*010306*	*1037*	

JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1038	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1039	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1040	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1041	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1042	0103
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1042	0203
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1044	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1054	0102
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1055	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1056	0102
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1060	0102
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1062	0102
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1067	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1068	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1069	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1070	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1076	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1077	0203
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1078	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1079	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1080	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1081	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1082	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1083	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1084	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1085	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1086	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1087	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1088	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1089	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1090	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1091	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1092	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1093	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1094	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1095	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1096	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010306	1999	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010307	1004	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010307	1005	
JEFFERSON	F137	PRECINCT 137 33 DISTRICT	010307	1006	
JEFFERSON	F138	PRECINCT 138 33 DIST			
JEFFERSON	F145	PRECINCT 145 33 DISTRICT			
JEFFERSON	R112	PRECINCT 112 47 DISTRICT			
JEFFERSON	R113	PRECINCT 113 47 DISTRICT			
JEFFERSON	R114	PRECINCT 114 47 DISTRICT			
JEFFERSON	R115	PRECINCT 115 47 DISTRICT			
JEFFERSON	R116	PRECINCT 116 47 DISTRICT			
JEFFERSON	R122	PRECINCT 122 47 DISTRICT			

JEFFERSON	*R123*		*PRECINCT 123 47 DISTRICT*			
JEFFERSON	*R124*		*PRECINCT 124 47 DISTRICT*			
JEFFERSON	*R125*		*PRECINCT 125 47 DISTRICT*			
JEFFERSON	*R127*		*PRECINCT 127 47 DISTRICT*			
JEFFERSON	*R128*		*PRECINCT 128 47 DISTRICT*			
JEFFERSON	*R130*		*PRECINCT 130 47 DISTRICT*			
JEFFERSON	*R132*		*PRECINCT 132 47 DISTRICT*	*010101*	*1001*	
JEFFERSON	*R132*		*PRECINCT 132 47 DISTRICT*	*010101*	*1002*	
JEFFERSON	*R133*		*PRECINCT 133 47 DISTRICT*			
JEFFERSON	*R134*		*PRECINCT 134 47 DISTRICT*			
JEFFERSON	*R136*		*PRECINCT 136 47 DISTRICT*			
JEFFERSON	*R137*		*PRECINCT 137 47 DISTRICT*			
JEFFERSON	*R138*		*PRECINCT 138 47 DISTRICT*			
JEFFERSON	*R140*		*PRECINCT 140 47 DISTRICT*			
JEFFERSON	*R142*		*PRECINCT 142 47 DIST*			
JEFFERSON	*R143*		*PRECINCT 143 47 DIST*			
JEFFERSON	*R144*		*PRECINCT 144 47 DIST*			
JEFFERSON	*R145*		*PRECINCT 134 47 DISTRICT*			
JEFFERSON	*S134*		*PRECINCT 134 48 DISTRICT*			

SECTION 7. KRS 5.234 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Thirty-fourth Representative District shall consist of the following territory:

				---CENSUS---		
COUNTY	*PREC*	*SEC*	*NAME*	*TRACT*	*BLCK*	*SECT*
JEFFERSON	*D101*		*PRECINCT 101 31 DISTRICT*	*010500*	*1017*	
JEFFERSON	*D101*		*PRECINCT 101 31 DISTRICT*	*010500*	*3003*	
JEFFERSON	*D101*		*PRECINCT 101 31 DISTRICT*	*010500*	*3030*	*0202*
JEFFERSON	*E103*		*PRECINCT 103 32 DISTRICT*			
JEFFERSON	*E105*		*PRECINCT 105 32 DISTRICT*			
JEFFERSON	*E107*		*PRECINCT 107 32 DISTRICT*			
JEFFERSON	*E110*		*PRECINCT 110 32 DISTRICT*			
JEFFERSON	*E111*		*PRECINCT 111 32 DISTRICT*			
JEFFERSON	*E112*		*PRECINCT 112 32 DISTRICT*			
JEFFERSON	*E114*		*PRECINCT 114 32 DISTRICT*			
JEFFERSON	*E116*		*PRECINCT 116 32 DISTRICT*			
JEFFERSON	*E118*		*PRECINCT 118 32 DISTRICT*			
JEFFERSON	*E119*		*PRECINCT 119 32 DISTRICT*			
JEFFERSON	*E120*		*PRECINCT 120 32 DISTRICT*			
JEFFERSON	*E126*		*PRECINCT 126 32 DISTRICT*			
JEFFERSON	*E130*		*PRECINCT 130 32 DISTRICT*			
JEFFERSON	*E138*		*PRECINCT 138 32 DISTRICT*			
JEFFERSON	*E140*		*PRECINCT 140 32 DISTRICT*			
JEFFERSON	*E141*		*PRECINCT 141 32 DISTRICT*			
JEFFERSON	*E156*		*PRECINCT 156 32 DISTRICT*			
JEFFERSON	*G117*		*PRECINCT 117 34 DISTRICT*			
JEFFERSON	*G119*		*PRECINCT 119 34 DISTRICT*			
JEFFERSON	*G120*		*PRECINCT 120 34 DISTRICT*			
JEFFERSON	*G121*		*PRECINCT 121 34 DISTRICT*			
JEFFERSON	*G122*		*PRECINCT 122 34 DISTRICT*			
JEFFERSON	*G123*		*PRECINCT 123 34 DISTRICT*			

JEFFERSON	G124		PRECINCT 124 34 DISTRICT			
JEFFERSON	G126		PRECINCT 126 34 DISTRICT			
JEFFERSON	G129		PRECINCT 129 34 DISTRICT			
JEFFERSON	G138		PRECINCT 138 34 DISTRICT			
JEFFERSON	G139		PRECINCT 139 34 DISTRICT			
JEFFERSON	G140		PRECINCT 140 34 DISTRICT			
JEFFERSON	G141		PRECINCT 141 34 DISTRICT			
JEFFERSON	G142		PRECINCT 142 34 DISTRICT			
JEFFERSON	G144		PRECINCT 144 34 DISTRICT			
JEFFERSON	G145		PRECINCT 145 34 DISTRICT			
JEFFERSON	G146		PRECINCT 146 34 DISTRICT			
JEFFERSON	G147		PRECINCT 147 34 DISTRICT			
JEFFERSON	G148		PRECINCT 148 34 DISTRICT			
JEFFERSON	G149		PRECINCT 149 34 DISTRICT			
JEFFERSON	G150		PRECINCT 150 34 DISTRICT			
JEFFERSON	G151		PRECINCT 151 34 DISTRICT			
JEFFERSON	G153		PRECINCT 153 34 DISTRICT			
JEFFERSON	L132		PRECINCT 132 41 DISTRICT			
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007501	2034	
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007501	3004	
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007501	3005	
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007501	3007	
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007501	3008	
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007501	3009	
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007501	3010	
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007501	3021	
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007501	3022	
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007501	3023	
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007501	3024	
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007501	3025	
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007501	3028	
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007501	3029	
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007501	3030	
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007501	3031	
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007501	3038	
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007700	1002	
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007700	1003	0202
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007700	1004	0202
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007700	1005	
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007700	1006	
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007700	1007	
JEFFERSON	S102		PRECINCT 102 48 DISTRICT	007700	1018	0202

SECTION 8. KRS 5.235 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Thirty-fifth Representative District shall consist of the following territory:

				---CENSUS---		
COUNTY	PREC	SEC	NAME	TRACT	BLCK	SECT
JEFFERSON	B138		PRECINCT 138 29 DISTRICT			
JEFFERSON	B139		PRECINCT 139 29 DISTRICT			
JEFFERSON	C101		PRECINCT 101 30 DISTRICT	011200	1004	

JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011200*	*1005*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011200*	*1006*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2010*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2011*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2012*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2013*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2014*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2015*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2016*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2017*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2018*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2019*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2020*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2021*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2022*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3002*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3003*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3006*	*0102*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3007*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3008*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3009*	*0202*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3010*	*0203*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3010*	*0303*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3011*	*0103*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3011*	*0203*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3012*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3013*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3015*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3016*	*0303*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3017*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3018*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3019*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3020*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3021*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3022*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3023*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3024*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011403*	*1004*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011403*	*1006*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011403*	*1011*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011403*	*1020*	
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011403*	*1021*	
JEFFERSON	*C102*	*PRECINCT 102 30 DISTRICT*	*011200*	*1009*	*0202*
JEFFERSON	*C102*	*PRECINCT 102 30 DISTRICT*	*011200*	*1012*	
JEFFERSON	*C102*	*PRECINCT 102 30 DISTRICT*	*011200*	*1013*	
JEFFERSON	*C102*	*PRECINCT 102 30 DISTRICT*	*011200*	*6004*	
JEFFERSON	*C102*	*PRECINCT 102 30 DISTRICT*	*011200*	*6005*	
JEFFERSON	*C104*	*PRECINCT 104 30 DISTRICT*	*011404*	*1003*	
JEFFERSON	*C104*	*PRECINCT 104 30 DISTRICT*	*011404*	*1004*	

JEFFERSON	*C104*	*PRECINCT 104 30 DISTRICT*	*011404*	*1005*	
JEFFERSON	*C104*	*PRECINCT 104 30 DISTRICT*	*011404*	*1006*	
JEFFERSON	*C104*	*PRECINCT 104 30 DISTRICT*	*011404*	*1007*	
JEFFERSON	*C104*	*PRECINCT 104 30 DISTRICT*	*011404*	*2000*	*0102*
JEFFERSON	*C125*	*PRECINCT 125 30 DISTRICT*	*011200*	*1003*	
JEFFERSON	*C125*	*PRECINCT 125 30 DISTRICT*	*011200*	*1007*	
JEFFERSON	*C125*	*PRECINCT 125 30 DISTRICT*	*011200*	*1008*	
JEFFERSON	*C125*	*PRECINCT 125 30 DISTRICT*	*011200*	*1009*	*0102*
JEFFERSON	*G103*	*PRECINCT 103 34 DISTRICT*			
JEFFERSON	*G104*	*PRECINCT 104 34 DISTRICT*			
JEFFERSON	*G106*	*PRECINCT 106 34 DISTRICT*			
JEFFERSON	*G107*	*PRECINCT 107 34 DISTRICT*			
JEFFERSON	*G108*	*PRECINCT 108 34 DISTRICT*			
JEFFERSON	*G109*	*PRECINCT 109 34 DISTRICT*			
JEFFERSON	*G111*	*PRECINCT 111 34 DISTRICT*			
JEFFERSON	*G112*	*PRECINCT 112 34 DISTRICT*			
JEFFERSON	*G116*	*PRECINCT 116 34 DISTRICT*			
JEFFERSON	*G143*	*PRECINCT 143 34 DISTRICT*			
JEFFERSON	*H103*	*PRECINCT 103 35 DISTRICT*			
JEFFERSON	*H109*	*PRECINCT 109 35 DISTRICT*			
JEFFERSON	*H111*	*PRECINCT 111 35 DISTRICT*			
JEFFERSON	*H112*	*PRECINCT 112 35 DISTRICT*			
JEFFERSON	*H113*	*PRECINCT 113 35 DISTRICT*			
JEFFERSON	*H114*	*PRECINCT 114 35 DISTRICT*			
JEFFERSON	*H115*	*PRECINCT 115 35 DISTRICT*			
JEFFERSON	*H116*	*PRECINCT 116 35 DISTRICT*			
JEFFERSON	*H117*	*PRECINCT 117 35 DISTRICT*			
JEFFERSON	*H118*	*PRECINCT 118 35 DISTRICT*			
JEFFERSON	*H120*	*PRECINCT 120 35 DISTRICT*			
JEFFERSON	*H121*	*PRECINCT 121 35 DISTRICT*			
JEFFERSON	*H123*	*PRECINCT 123 35 DISTRICT*			
JEFFERSON	*H124*	*PRECINCT 124 35 DISTRICT*			
JEFFERSON	*H125*	*PRECINCT 125 35 DISTRICT*			
JEFFERSON	*H126*	*PRECINCT 126 35 DISTRICT*			
JEFFERSON	*H127*	*PRECINCT 127 35 DISTRICT*			
JEFFERSON	*H130*	*PRECINCT 130 35 DISTRICT*			
JEFFERSON	*H134*	*PRECINCT 134 35 DISTRICT*	*011800*	*5004*	
JEFFERSON	*H134*	*PRECINCT 134 35 DISTRICT*	*011800*	*6006*	
JEFFERSON	*H134*	*PRECINCT 134 35 DISTRICT*	*011901*	*3006*	
JEFFERSON	*H134*	*PRECINCT 134 35 DISTRICT*	*011901*	*3007*	
JEFFERSON	*H134*	*PRECINCT 134 35 DISTRICT*	*011901*	*3008*	
JEFFERSON	*H134*	*PRECINCT 134 35 DISTRICT*	*011901*	*3009*	
JEFFERSON	*H134*	*PRECINCT 134 35 DISTRICT*	*011901*	*3010*	
JEFFERSON	*H134*	*PRECINCT 134 35 DISTRICT*	*011901*	*3012*	
JEFFERSON	*H134*	*PRECINCT 134 35 DISTRICT*	*011901*	*3013*	
JEFFERSON	*H134*	*PRECINCT 134 35 DISTRICT*	*011901*	*3014*	
JEFFERSON	*H134*	*PRECINCT 134 35 DISTRICT*	*011901*	*3015*	
JEFFERSON	*H134*	*PRECINCT 134 35 DISTRICT*	*011901*	*3016*	
JEFFERSON	*H134*	*PRECINCT 134 35 DISTRICT*	*011901*	*3017*	

JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011901	3018	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011901	3019	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011901	3020	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011901	3021	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011901	3022	0202
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011901	3023	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011901	3024	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011901	3025	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011901	3026	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011901	3027	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011901	3028	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011901	4001	0202
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011901	4002	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011901	4006	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011904	1009	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011904	1010	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011904	1011	0103
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011904	1011	0203
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011904	2000	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011904	2001	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011904	2002	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011904	2009	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011904	2011	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011905	1004	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011905	1005	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011905	1006	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011905	1007	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011905	1008	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011905	1009	
JEFFERSON	H134		PRECINCT 134 35 DISTRICT	011905	1011	
JEFFERSON	H140		PRECINCT 140 35 DISTRICT			
JEFFERSON	H142		PRECINCT 142 35 DISTRICT			
JEFFERSON	I104		PRECINCT 104 37 DISTRICT			
JEFFERSON	I128		PRECINCT 128 37 DISTRICT			
JEFFERSON	Q124		PRECINCT 124 46 DISTRICT	011800	2003	
JEFFERSON	Q124		PRECINCT 124 46 DISTRICT	011800	2004	
JEFFERSON	Q124		PRECINCT 124 46 DISTRICT	011800	2008	
JEFFERSON	Q124		PRECINCT 124 46 DISTRICT	011800	4002	
JEFFERSON	Q124		PRECINCT 124 46 DISTRICT	011800	4003	
JEFFERSON	Q124		PRECINCT 124 46 DISTRICT	011800	4006	
JEFFERSON	Q124		PRECINCT 124 46 DISTRICT	011800	4008	
JEFFERSON	Q124		PRECINCT 124 46 DISTRICT	011800	4010	

SECTION 9. KRS 5.237 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Thirty-seventh Representative District shall consist of the following territory:

				---CENSUS---		
COUNTY	PREC	SEC	NAME	TRACT	BLCK	SECT
JEFFERSON	B126		PRECINCT 126 29 DISTRICT			
JEFFERSON	B127		PRECINCT 127 29 DISTRICT	011705	1000	
JEFFERSON	B127		PRECINCT 127 29 DISTRICT	011705	1001	

JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*1002*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*1003*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*1004*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*1005*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*1006*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*1007*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*1008*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*1009*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*1010*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*1011*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*1012*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*2002*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*2003*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*2004*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*2005*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*2006*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*2007*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*2008*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*3000*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*3001*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*3002*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*3003*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*3008*	*0203*
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*3009*	*0102*
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011705*	*3010*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011905*	*2025*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011905*	*2026*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011905*	*2027*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011905*	*2029*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011905*	*2031*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011905*	*3011*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011905*	*3013*	
JEFFERSON	*B127*	*PRECINCT 127 29 DISTRICT*	*011905*	*3014*	
JEFFERSON	*B128*	*PRECINCT 128 29 DISTRICT*			
JEFFERSON	*B129*	*PRECINCT 129 29 DISTRICT*			
JEFFERSON	*B141*	*PRECINCT 141 29 DISTRICT*			
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*011901*	*4007*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*011901*	*4008*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*011901*	*4034*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*011901*	*4037*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*011901*	*4038*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2000*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2004*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2005*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2006*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2007*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2008*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2010*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2012*	*0102*

JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2013*	*0202*
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2016*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2017*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2018*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2019*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2020*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2021*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2023*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2024*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2025*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2026*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2027*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2028*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2029*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2030*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2031*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2032*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012001*	*2999*	
JEFFERSON	*B143*	*PRECINCT 143 29 DISTRICT*	*012003*	*3005*	
JEFFERSON	*B147*	*PRECINCT 147 29 DISTRICT*			
JEFFERSON	*B148*	*PRECINCT 148 29 DISTRICT*			
JEFFERSON	*B150*	*PRECINCT 150 29 DISTRICT*			
JEFFERSON	*H136*	*PRECINCT 136 35 DISTRICT*			
JEFFERSON	*H138*	*PRECINCT 138 35 DISTRICT*			
JEFFERSON	*H143*	*PRECINCT 143 35 DISTRICT*			
JEFFERSON	*I114*	*PRECINCT 114 37 DISTRICT*			
JEFFERSON	*I115*	*PRECINCT 115 37 DISTRICT*			
JEFFERSON	*I117*	*PRECINCT 117 37 DISTRICT*			
JEFFERSON	*I120*	*PRECINCT 120 37 DISTRICT*			
JEFFERSON	*I122*	*PRECINCT 122 37 DISTRICT*			
JEFFERSON	*I123*	*PRECINCT 123 37 DISTRICT*			
JEFFERSON	*I124*	*PRECINCT 124 37 DISTRICT*			
JEFFERSON	*I125*	*PRECINCT 125 37 DISTRICT*	*009104*	*3000*	*0103*
JEFFERSON	*I125*	*PRECINCT 125 37 DISTRICT*	*009104*	*3001*	
JEFFERSON	*I125*	*PRECINCT 125 37 DISTRICT*	*009104*	*3015*	
JEFFERSON	*I125*	*PRECINCT 125 37 DISTRICT*	*009104*	*3016*	
JEFFERSON	*I125*	*PRECINCT 125 37 DISTRICT*	*009104*	*4011*	*0103*
JEFFERSON	*I125*	*PRECINCT 125 37 DISTRICT*	*009104*	*4011*	*0303*
JEFFERSON	*I125*	*PRECINCT 125 37 DISTRICT*	*009104*	*4012*	
JEFFERSON	*I125*	*PRECINCT 125 37 DISTRICT*	*009104*	*4013*	
JEFFERSON	*I125*	*PRECINCT 125 37 DISTRICT*	*009104*	*4014*	
JEFFERSON	*I125*	*PRECINCT 125 37 DISTRICT*	*009104*	*4015*	
JEFFERSON	*I125*	*PRECINCT 125 37 DISTRICT*	*009104*	*4016*	
JEFFERSON	*I125*	*PRECINCT 125 37 DISTRICT*	*009104*	*4017*	
JEFFERSON	*I125*	*PRECINCT 125 37 DISTRICT*	*012002*	*1007*	
JEFFERSON	*I125*	*PRECINCT 125 37 DISTRICT*	*012002*	*1019*	
JEFFERSON	*I125*	*PRECINCT 125 37 DISTRICT*	*012002*	*2000*	*0202*
JEFFERSON	*I125*	*PRECINCT 125 37 DISTRICT*	*012002*	*2008*	*0202*
JEFFERSON	*I125*	*PRECINCT 125 37 DISTRICT*	*012002*	*2009*	

JEFFERSON	I129	PRECINCT 129 37 DISTRICT
JEFFERSON	I130	PRECINCT 130 37 DISTRICT
JEFFERSON	I133	PRECINCT 133 37 DISTRICT
JEFFERSON	I134	PRECINCT 134 37 DISTRICT
JEFFERSON	Q118	PRECINCT 118 46 DISTRICT

SECTION 10. KRS 5.238 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Thirty-eighth Representative District shall consist of the following territory:

				---CENSUS---		
COUNTY	PREC	SEC	NAME	TRACT	BLCK	SECT
JEFFERSON	B119		PRECINCT 119 29 DISTRICT	012106	3009	
JEFFERSON	B119		PRECINCT 119 29 DISTRICT	012106	4004	
JEFFERSON	B119		PRECINCT 119 29 DISTRICT	012106	4005	
JEFFERSON	B119		PRECINCT 119 29 DISTRICT	012106	4006	
JEFFERSON	B119		PRECINCT 119 29 DISTRICT	012106	4008	
JEFFERSON	B119		PRECINCT 119 29 DISTRICT	012106	4013	
JEFFERSON	B119		PRECINCT 119 29 DISTRICT	012107	3000	
JEFFERSON	B120		PRECINCT 120 29 DISTRICT			
JEFFERSON	B121		PRECINCT 121 29 DISTRICT			
JEFFERSON	B125		PRECINCT 125 29 DISTRICT	012003	2027	
JEFFERSON	B125		PRECINCT 125 29 DISTRICT	012003	2028	
JEFFERSON	B143		PRECINCT 143 29 DISTRICT	012003	3010	
JEFFERSON	B143		PRECINCT 143 29 DISTRICT	012003	3011	
JEFFERSON	I105		PRECINCT 105 37 DISTRICT			
JEFFERSON	I106		PRECINCT 106 37 DISTRICT			
JEFFERSON	I110		PRECINCT 110 37 DISTRICT			
JEFFERSON	I111		PRECINCT 111 37 DISTRICT			
JEFFERSON	I125		PRECINCT 125 37 DISTRICT	012002	2001	0202
JEFFERSON	I125		PRECINCT 125 37 DISTRICT	012002	2002	0102
JEFFERSON	I125		PRECINCT 125 37 DISTRICT	012002	2003	
JEFFERSON	I125		PRECINCT 125 37 DISTRICT	012002	2004	
JEFFERSON	I125		PRECINCT 125 37 DISTRICT	012002	2005	
JEFFERSON	I125		PRECINCT 125 37 DISTRICT	012002	2006	
JEFFERSON	I125		PRECINCT 125 37 DISTRICT	012002	2007	
JEFFERSON	I125		PRECINCT 125 37 DISTRICT	012002	3008	0102
JEFFERSON	I125		PRECINCT 125 37 DISTRICT	012002	3009	
JEFFERSON	I126		PRECINCT 126 37 DISTRICT			
JEFFERSON	I135		PRECINCT 135 37 DISTRICT			
JEFFERSON	J104		PRECINCT 104 38 DISTRICT			
JEFFERSON	J105		PRECINCT 105 38 DISTRICT			
JEFFERSON	J107		PRECINCT 107 38 DISTRICT			
JEFFERSON	J108		PRECINCT 108 38 DISTRICT			
JEFFERSON	J110		PRECINCT 110 38 DISTRICT			
JEFFERSON	J111		PRECINCT 111 38 DISTRICT			
JEFFERSON	J113		PRECINCT 113 38 DISTRICT			
JEFFERSON	J114		PRECINCT 114 38 DISTRICT			
JEFFERSON	J117		PRECINCT 117 38 DISTRICT			
JEFFERSON	J119		PRECINCT 119 38 DISTRICT			
JEFFERSON	J120		PRECINCT 120 38 DISTRICT			
JEFFERSON	J122		PRECINCT 122 38 DISTRICT			

JEFFERSON	*J123*		*PRECINCT 123 38 DISTRICT*			
JEFFERSON	*J131*		*PRECINCT 131 38 DISTRICT*			
JEFFERSON	*J133*		*PRECINCT 133 38 DISTRICT*			
JEFFERSON	*J135*		*PRECINCT 135 38 DISTRICT*			
JEFFERSON	*J136*		*PRECINCT 136 38 DISTRICT*			
JEFFERSON	*K118*		*PRECINCT 118 40 DISTRICT*	*003900*	*3003*	*0102*

SECTION 11. KRS 5.240 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Fortieth Representative District shall consist of the following territory:

				---CENSUS---		
COUNTY	*PREC*	*SEC*	*NAME*	*TRACT*	*BLCK*	*SECT*
JEFFERSON	*H102*		*PRECINCT 102 35 DISTRICT*			
JEFFERSON	*H105*		*PRECINCT 105 35 DISTRICT*			
JEFFERSON	*H106*		*PRECINCT 106 35 DISTRICT*			
JEFFERSON	*H110*		*PRECINCT 110 35 DISTRICT*			
JEFFERSON	*H131*		*PRECINCT 131 35 DISTRICT*			
JEFFERSON	*H132*		*PRECINCT 132 35 DISTRICT*			
JEFFERSON	*H133*		*PRECINCT 133 35 DISTRICT*			
JEFFERSON	*H141*		*PRECINCT 141 35 DISTRICT*			
JEFFERSON	*I101*		*PRECINCT 101 37 DISTRICT*			
JEFFERSON	*I103*		*PRECINCT 103 37 DISTRICT*			
JEFFERSON	*I107*		*PRECINCT 107 37 DISTRICT*			
JEFFERSON	*I109*		*PRECINCT 109 37 DISTRICT*			
JEFFERSON	*I112*		*PRECINCT 112 37 DISTRICT*			
JEFFERSON	*I127*		*PRECINCT 127 37 DISTRICT*			
JEFFERSON	*J101*		*PRECINCT 101 38 DISTRICT*			
JEFFERSON	*J130*		*PRECINCT 130 38 DISTRICT*			
JEFFERSON	*K105*		*PRECINCT 105 40 DISTRICT*			
JEFFERSON	*K110*		*PRECINCT 110 40 DISTRICT*			
JEFFERSON	*K111*		*PRECINCT 111 40 DISTRICT*			
JEFFERSON	*K112*		*PRECINCT 112 40 DISTRICT*			
JEFFERSON	*K113*		*PRECINCT 113 40 DISTRICT*	*003600*	*2002*	*0202*
JEFFERSON	*K113*		*PRECINCT 113 40 DISTRICT*	*003600*	*2003*	
JEFFERSON	*K113*		*PRECINCT 113 40 DISTRICT*	*003600*	*3000*	
JEFFERSON	*K113*		*PRECINCT 113 40 DISTRICT*	*003600*	*3001*	
JEFFERSON	*K113*		*PRECINCT 113 40 DISTRICT*	*003600*	*3002*	
JEFFERSON	*K113*		*PRECINCT 113 40 DISTRICT*	*003600*	*3003*	
JEFFERSON	*K113*		*PRECINCT 113 40 DISTRICT*	*003600*	*3004*	
JEFFERSON	*K113*		*PRECINCT 113 40 DISTRICT*	*003600*	*3009*	
JEFFERSON	*K113*		*PRECINCT 113 40 DISTRICT*	*003600*	*3010*	
JEFFERSON	*K113*		*PRECINCT 113 40 DISTRICT*	*003600*	*3011*	
JEFFERSON	*K113*		*PRECINCT 113 40 DISTRICT*	*003600*	*3012*	
JEFFERSON	*K113*		*PRECINCT 113 40 DISTRICT*	*003600*	*3013*	
JEFFERSON	*K113*		*PRECINCT 113 40 DISTRICT*	*003600*	*4005*	
JEFFERSON	*K113*		*PRECINCT 113 40 DISTRICT*	*003600*	*4006*	
JEFFERSON	*K113*		*PRECINCT 113 40 DISTRICT*	*003600*	*4007*	
JEFFERSON	*K113*		*PRECINCT 113 40 DISTRICT*	*003600*	*4008*	
JEFFERSON	*K113*		*PRECINCT 113 40 DISTRICT*	*003600*	*5000*	*0202*
JEFFERSON	*K114*		*PRECINCT 114 40 DISTRICT*			
JEFFERSON	*K116*		*PRECINCT 116 40 DISTRICT*			

JEFFERSON	K117		PRECINCT 117 40 DISTRICT			
JEFFERSON	K122		PRECINCT 122 40 DISTRICT	012801	1012	0102
JEFFERSON	K122		PRECINCT 122 40 DISTRICT	012801	1014	
JEFFERSON	K122		PRECINCT 122 40 DISTRICT	012801	1015	
JEFFERSON	K122		PRECINCT 122 40 DISTRICT	012801	1016	
JEFFERSON	K122		PRECINCT 122 40 DISTRICT	012801	1028	0202
JEFFERSON	K122		PRECINCT 122 40 DISTRICT	012802	1018	
JEFFERSON	K122		PRECINCT 122 40 DISTRICT	012802	1019	
JEFFERSON	K122		PRECINCT 122 40 DISTRICT	012802	1020	
JEFFERSON	K122		PRECINCT 122 40 DISTRICT	012802	1021	
JEFFERSON	K122		PRECINCT 122 40 DISTRICT	012802	1022	
JEFFERSON	K122		PRECINCT 122 40 DISTRICT	012802	1023	
JEFFERSON	K122		PRECINCT 122 40 DISTRICT	012802	1024	
JEFFERSON	K122		PRECINCT 122 40 DISTRICT	012802	1025	
JEFFERSON	K122		PRECINCT 122 40 DISTRICT	012802	1026	
JEFFERSON	K122		PRECINCT 122 40 DISTRICT	012802	1027	
JEFFERSON	K122		PRECINCT 122 40 DISTRICT	012802	2000	
JEFFERSON	K122		PRECINCT 122 40 DISTRICT	012802	2002	
JEFFERSON	K122		PRECINCT 122 40 DISTRICT	012802	2003	
JEFFERSON	K122		PRECINCT 122 40 DISTRICT	012802	2004	
JEFFERSON	K122		PRECINCT 122 40 DISTRICT	012802	2005	
JEFFERSON	K122		PRECINCT 122 40 DISTRICT	012802	2006	
JEFFERSON	K122		PRECINCT 122 40 DISTRICT	012802	2007	
JEFFERSON	K123		PRECINCT 123 40 DISTRICT			
JEFFERSON	K125		PRECINCT 125 40 DISTRICT			
JEFFERSON	K129		PRECINCT 129 40 DISTRICT			
JEFFERSON	L114		PRECINCT 114 41 DISTRICT			
JEFFERSON	L127		PRECINCT 127 41 DISTRICT			
JEFFERSON	L129		PRECINCT 129 41 DISTRICT			
JEFFERSON	L131		PRECINCT 131 41 DISTRICT			
JEFFERSON	M125		PRECINCT 125 42 DISTRICT			
JEFFERSON	M131		PRECINCT 131 42 DISTRICT			

SECTION 12. KRS 5.241 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Forty-first Representative District shall consist of the following territory:

				---CENSUS---		
COUNTY	PREC	SEC	NAME	TRACT	BLCK	SECT
JEFFERSON	L104		PRECINCT 104 41 DISTRICT			
JEFFERSON	L107		PRECINCT 107 41 DISTRICT			
JEFFERSON	L108		PRECINCT 108 41 DISTRICT			
JEFFERSON	L109		PRECINCT 109 41 DISTRICT	004900	1101	
JEFFERSON	L109		PRECINCT 109 41 DISTRICT	004900	1102	
JEFFERSON	L109		PRECINCT 109 41 DISTRICT	004900	1103	
JEFFERSON	L109		PRECINCT 109 41 DISTRICT	004900	1104	
JEFFERSON	L109		PRECINCT 109 41 DISTRICT	004900	1111	
JEFFERSON	L109		PRECINCT 109 41 DISTRICT	004900	1112	
JEFFERSON	L109		PRECINCT 109 41 DISTRICT	004900	1115	
JEFFERSON	L109		PRECINCT 109 41 DISTRICT	005900	2002	
JEFFERSON	L109		PRECINCT 109 41 DISTRICT	005900	2003	
JEFFERSON	L109		PRECINCT 109 41 DISTRICT	005900	3002	

JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*005900*	*3003*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*005900*	*3004*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*005900*	*3005*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*005900*	*3006*
JEFFERSON	*L110*	*PRECINCT 110 41 DISTRICT*		
JEFFERSON	*L111*	*PRECINCT 111 41 DISTRICT*		
JEFFERSON	*L112*	*PRECINCT 112 41 DISTRICT*		
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*1000*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*1001*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*1015*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*1016*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*1037*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*1038*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*1039*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*1040*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*1041*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*1042*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*1043*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*1044*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*1059*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*1060*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*1061*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*1063*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4000*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4001*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4002*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4003*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4004*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4005*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4006*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4007*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4008*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4009*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4010*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4011*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4012*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4013*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4014*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4015*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4016*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4017*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4018*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4019*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4020*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4021*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4022*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4023*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4025*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*4026*

JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	4027	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	4030	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	006200	1000	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	006200	1001	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	006200	1002	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	006200	1003	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	006200	1011	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	006200	1012	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	006200	1021	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	006200	1022	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	006200	1023	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	006200	1024	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	006200	1025	0202
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	006200	1026	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	006200	1038	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	006200	1039	0202
JEFFERSON	L115	PRECINCT 115 41 DISTRICT			
JEFFERSON	L116	PRECINCT 116 41 DISTRICT			
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	005900	1002	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	005900	1003	0102
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1007	0102
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1008	0102
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1009	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1010	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1011	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1015	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1016	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1017	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1018	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1019	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1020	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1021	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1022	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1023	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1024	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1027	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1028	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1029	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1030	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1031	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1032	0202
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1035	0202
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1036	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1037	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1038	0202
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007602	1000	0202
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007602	1001	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007602	1002	0102
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007602	1004	

JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007602	1005	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007602	1006	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007602	1007	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007602	1008	0202
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007602	1009	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007602	1010	0202
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007602	1011	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007602	1012	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007602	2000	0202
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007602	2001	0202
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007603	1005	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007603	1006	
JEFFERSON	L119	PRECINCT 119 41 DISTRICT			
JEFFERSON	L121	PRECINCT 121 41 DISTRICT			
JEFFERSON	L122	PRECINCT 122 41 DISTRICT	002400	2005	
JEFFERSON	L122	PRECINCT 122 41 DISTRICT	002400	2007	
JEFFERSON	L122	PRECINCT 122 41 DISTRICT	002400	2008	
JEFFERSON	L122	PRECINCT 122 41 DISTRICT	002400	2009	
JEFFERSON	L122	PRECINCT 122 41 DISTRICT	002400	2012	
JEFFERSON	L122	PRECINCT 122 41 DISTRICT	002400	2013	
JEFFERSON	L122	PRECINCT 122 41 DISTRICT	002400	2014	
JEFFERSON	L122	PRECINCT 122 41 DISTRICT	002400	2015	
JEFFERSON	L122	PRECINCT 122 41 DISTRICT	002400	2016	
JEFFERSON	L122	PRECINCT 122 41 DISTRICT	002400	2017	
JEFFERSON	L122	PRECINCT 122 41 DISTRICT	002400	2018	
JEFFERSON	L122	PRECINCT 122 41 DISTRICT	002400	2034	
JEFFERSON	L122	PRECINCT 122 41 DISTRICT	002400	2035	
JEFFERSON	L122	PRECINCT 122 41 DISTRICT	003000	2000	
JEFFERSON	L122	PRECINCT 122 41 DISTRICT	003000	2001	
JEFFERSON	L122	PRECINCT 122 41 DISTRICT	003000	3000	0202
JEFFERSON	L122	PRECINCT 122 41 DISTRICT	003000	3001	
JEFFERSON	L122	PRECINCT 122 41 DISTRICT	003000	3002	0102
JEFFERSON	L122	PRECINCT 122 41 DISTRICT	004900	1075	0203
JEFFERSON	L124	PRECINCT 124 41 DISTRICT			
JEFFERSON	L126	PRECINCT 126 41 DISTRICT			
JEFFERSON	L133	PRECINCT 133 41 DISTRICT			
JEFFERSON	M104	PRECINCT 104 42 DISTRICT			
JEFFERSON	M106	PRECINCT 106 42 DISTRICT			
JEFFERSON	M107	PRECINCT 107 42 DISTRICT			
JEFFERSON	M113	PRECINCT 113 42 DISTRICT			
JEFFERSON	M114	PRECINCT 114 42 DISTRICT			
JEFFERSON	M115	PRECINCT 115 42 DISTRICT			
JEFFERSON	M116	PRECINCT 116 42 DISTRICT			
JEFFERSON	M117	PRECINCT 117 42 DISTRICT			
JEFFERSON	M120	PRECINCT 120 42 DISTRICT	005000	1018	
JEFFERSON	M120	PRECINCT 120 42 DISTRICT	005100	1000	
JEFFERSON	M120	PRECINCT 120 42 DISTRICT	005100	1004	
JEFFERSON	M120	PRECINCT 120 42 DISTRICT	005100	2000	
JEFFERSON	M120	PRECINCT 120 42 DISTRICT	005100	2001	

JEFFERSON	*M120*		*PRECINCT 120 42 DISTRICT*	*005100*	*2002*	
JEFFERSON	*M120*		*PRECINCT 120 42 DISTRICT*	*005100*	*2003*	
JEFFERSON	*M120*		*PRECINCT 120 42 DISTRICT*	*005100*	*3000*	
JEFFERSON	*M120*		*PRECINCT 120 42 DISTRICT*	*005100*	*3001*	
JEFFERSON	*M120*		*PRECINCT 120 42 DISTRICT*	*005100*	*4000*	
JEFFERSON	*M121*		*PRECINCT 121 42 DISTRICT*	*002700*	*4024*	*0202*
JEFFERSON	*M121*		*PRECINCT 121 42 DISTRICT*	*002700*	*4025*	*0202*
JEFFERSON	*M121*		*PRECINCT 121 42 DISTRICT*	*002700*	*4026*	
JEFFERSON	*M121*		*PRECINCT 121 42 DISTRICT*	*002700*	*4046*	
JEFFERSON	*M121*		*PRECINCT 121 42 DISTRICT*	*005100*	*1001*	
JEFFERSON	*M121*		*PRECINCT 121 42 DISTRICT*	*005100*	*1002*	
JEFFERSON	*M121*		*PRECINCT 121 42 DISTRICT*	*005100*	*1003*	
JEFFERSON	*M121*		*PRECINCT 121 42 DISTRICT*	*005100*	*1006*	
JEFFERSON	*M121*		*PRECINCT 121 42 DISTRICT*	*005100*	*1007*	
JEFFERSON	*M121*		*PRECINCT 121 42 DISTRICT*	*005100*	*1008*	
JEFFERSON	*M121*		*PRECINCT 121 42 DISTRICT*	*005100*	*1009*	
JEFFERSON	*M121*		*PRECINCT 121 42 DISTRICT*	*005100*	*1010*	
JEFFERSON	*M136*		*PRECINCT 136 42 DISTRICT*			
JEFFERSON	*N118*		*PRECINCT 118 43 DISTRICT*	*001000*	*2007*	
JEFFERSON	*N118*		*PRECINCT 118 43 DISTRICT*	*001000*	*3001*	
JEFFERSON	*N122*		*PRECINCT 122 43 DISTRICT*			

SECTION 13. KRS 5.242 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Forty-second Representative District shall consist of the following territory:

				---CENSUS---		
COUNTY	*PREC*	*SEC*	*NAME*	*TRACT*	*BLCK*	*SECT*
JEFFERSON	*K103*		*PRECINCT 103 40 DISTRICT*			
JEFFERSON	*K104*		*PRECINCT 104 40 DISTRICT*			
JEFFERSON	*K107*		*PRECINCT 107 40 DISTRICT*			
JEFFERSON	*K108*		*PRECINCT 108 40 DISTRICT*			
JEFFERSON	*K113*		*PRECINCT 113 40 DISTRICT*	*012802*	*1000*	*0102*
JEFFERSON	*K118*		*PRECINCT 118 40 DISTRICT*	*003900*	*2006*	
JEFFERSON	*K118*		*PRECINCT 118 40 DISTRICT*	*003900*	*2007*	
JEFFERSON	*K118*		*PRECINCT 118 40 DISTRICT*	*004301*	*1000*	*0202*
JEFFERSON	*K118*		*PRECINCT 118 40 DISTRICT*	*004301*	*1001*	
JEFFERSON	*K118*		*PRECINCT 118 40 DISTRICT*	*004301*	*1002*	
JEFFERSON	*K118*		*PRECINCT 118 40 DISTRICT*	*004301*	*1003*	
JEFFERSON	*K118*		*PRECINCT 118 40 DISTRICT*	*004301*	*1004*	
JEFFERSON	*K118*		*PRECINCT 118 40 DISTRICT*	*004301*	*1005*	
JEFFERSON	*K118*		*PRECINCT 118 40 DISTRICT*	*004301*	*1006*	
JEFFERSON	*K118*		*PRECINCT 118 40 DISTRICT*	*004301*	*1007*	
JEFFERSON	*K118*		*PRECINCT 118 40 DISTRICT*	*004301*	*1008*	
JEFFERSON	*K118*		*PRECINCT 118 40 DISTRICT*	*004301*	*1009*	
JEFFERSON	*K118*		*PRECINCT 118 40 DISTRICT*	*004301*	*1010*	
JEFFERSON	*K118*		*PRECINCT 118 40 DISTRICT*	*004301*	*1011*	
JEFFERSON	*K118*		*PRECINCT 118 40 DISTRICT*	*004301*	*1012*	
JEFFERSON	*K118*		*PRECINCT 118 40 DISTRICT*	*004301*	*1014*	
JEFFERSON	*K118*		*PRECINCT 118 40 DISTRICT*	*004301*	*1015*	
JEFFERSON	*K118*		*PRECINCT 118 40 DISTRICT*	*004301*	*1016*	
JEFFERSON	*K121*		*PRECINCT 121 40 DISTRICT*			

JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	1000	0202
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	1001	0102
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	1012	
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	1013	
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	1014	
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	1015	
JEFFERSON	K130	PRECINCT 130 40 DISTRICT			
JEFFERSON	K131	PRECINCT 131 40 DISTRICT	004301	1013	
JEFFERSON	K131	PRECINCT 131 40 DISTRICT	012501	1000	
JEFFERSON	K131	PRECINCT 131 40 DISTRICT	012501	1001	
JEFFERSON	K131	PRECINCT 131 40 DISTRICT	012603	1000	
JEFFERSON	K131	PRECINCT 131 40 DISTRICT	012603	1001	
JEFFERSON	K131	PRECINCT 131 40 DISTRICT	012603	1002	
JEFFERSON	K131	PRECINCT 131 40 DISTRICT	012603	1003	
JEFFERSON	K131	PRECINCT 131 40 DISTRICT	012603	1004	
JEFFERSON	K131	PRECINCT 131 40 DISTRICT	012603	1005	0202
JEFFERSON	K131	PRECINCT 131 40 DISTRICT	012603	1006	
JEFFERSON	K131	PRECINCT 131 40 DISTRICT	012603	1007	
JEFFERSON	K131	PRECINCT 131 40 DISTRICT	012603	1008	
JEFFERSON	K131	PRECINCT 131 40 DISTRICT	012603	1009	
JEFFERSON	K131	PRECINCT 131 40 DISTRICT	012603	1010	
JEFFERSON	K131	PRECINCT 131 40 DISTRICT	012603	1011	0102
JEFFERSON	K131	PRECINCT 131 40 DISTRICT	012603	1012	0202
JEFFERSON	K131	PRECINCT 131 40 DISTRICT	012603	1014	0102
JEFFERSON	K131	PRECINCT 131 40 DISTRICT	012603	1015	0102
JEFFERSON	K131	PRECINCT 131 40 DISTRICT	012603	1016	
JEFFERSON	K131	PRECINCT 131 40 DISTRICT	012603	1017	
JEFFERSON	K131	PRECINCT 131 40 DISTRICT	012603	1018	
JEFFERSON	K131	PRECINCT 131 40 DISTRICT	012604	1000	
JEFFERSON	K131	PRECINCT 131 40 DISTRICT	012604	1001	0102
JEFFERSON	L130	PRECINCT 130 41 DISTRICT			
JEFFERSON	M102	PRECINCT 102 42 DISTRICT			
JEFFERSON	M103	PRECINCT 103 42 DISTRICT	001200	2007	
JEFFERSON	M103	PRECINCT 103 42 DISTRICT	001200	2009	
JEFFERSON	M103	PRECINCT 103 42 DISTRICT	001200	2011	
JEFFERSON	M103	PRECINCT 103 42 DISTRICT	001200	3000	0102
JEFFERSON	M103	PRECINCT 103 42 DISTRICT	001200	3001	
JEFFERSON	M103	PRECINCT 103 42 DISTRICT	001200	3002	
JEFFERSON	M103	PRECINCT 103 42 DISTRICT	001200	3003	
JEFFERSON	M103	PRECINCT 103 42 DISTRICT	001200	3004	
JEFFERSON	M103	PRECINCT 103 42 DISTRICT	001200	3008	0102
JEFFERSON	M103	PRECINCT 103 42 DISTRICT	001200	3009	
JEFFERSON	M103	PRECINCT 103 42 DISTRICT	001200	3010	
JEFFERSON	M103	PRECINCT 103 42 DISTRICT	001200	3011	
JEFFERSON	M103	PRECINCT 103 42 DISTRICT	001200	3012	
JEFFERSON	M103	PRECINCT 103 42 DISTRICT	001200	4013	0102
JEFFERSON	M103	PRECINCT 103 42 DISTRICT	001200	4014	
JEFFERSON	M103	PRECINCT 103 42 DISTRICT	001200	4015	
JEFFERSON	M103	PRECINCT 103 42 DISTRICT	001200	4016	

JEFFERSON	*M103*	*PRECINCT 103 42 DISTRICT*	*001200*	*4017*	
JEFFERSON	*M103*	*PRECINCT 103 42 DISTRICT*	*001200*	*4020*	
JEFFERSON	*M103*	*PRECINCT 103 42 DISTRICT*	*001200*	*4021*	
JEFFERSON	*M103*	*PRECINCT 103 42 DISTRICT*	*001200*	*4022*	
JEFFERSON	*M103*	*PRECINCT 103 42 DISTRICT*	*001200*	*4023*	
JEFFERSON	*M103*	*PRECINCT 103 42 DISTRICT*	*001200*	*4024*	
JEFFERSON	*M103*	*PRECINCT 103 42 DISTRICT*	*001200*	*4025*	
JEFFERSON	*M103*	*PRECINCT 103 42 DISTRICT*	*001200*	*4026*	
JEFFERSON	*M103*	*PRECINCT 103 42 DISTRICT*	*001200*	*4027*	
JEFFERSON	*M103*	*PRECINCT 103 42 DISTRICT*	*001400*	*1000*	
JEFFERSON	*M103*	*PRECINCT 103 42 DISTRICT*	*001400*	*1001*	
JEFFERSON	*M103*	*PRECINCT 103 42 DISTRICT*	*001400*	*1002*	
JEFFERSON	*M103*	*PRECINCT 103 42 DISTRICT*	*001400*	*1003*	
JEFFERSON	*M103*	*PRECINCT 103 42 DISTRICT*	*001400*	*1004*	
JEFFERSON	*M103*	*PRECINCT 103 42 DISTRICT*	*001400*	*1005*	
JEFFERSON	*M103*	*PRECINCT 103 42 DISTRICT*	*001400*	*2000*	
JEFFERSON	*M103*	*PRECINCT 103 42 DISTRICT*	*012701*	*1000*	*0303*
JEFFERSON	*M105*	*PRECINCT 105 42 DISTRICT*			
JEFFERSON	*M110*	*PRECINCT 110 42 DISTRICT*			
JEFFERSON	*M120*	*PRECINCT 120 42 DISTRICT*	*005100*	*1005*	
JEFFERSON	*M120*	*PRECINCT 120 42 DISTRICT*	*005100*	*1011*	
JEFFERSON	*M120*	*PRECINCT 120 42 DISTRICT*	*005100*	*1012*	
JEFFERSON	*M120*	*PRECINCT 120 42 DISTRICT*	*005100*	*1013*	
JEFFERSON	*M120*	*PRECINCT 120 42 DISTRICT*	*005100*	*2004*	
JEFFERSON	*M120*	*PRECINCT 120 42 DISTRICT*	*005100*	*2005*	
JEFFERSON	*M120*	*PRECINCT 120 42 DISTRICT*	*005100*	*3002*	
JEFFERSON	*M120*	*PRECINCT 120 42 DISTRICT*	*005100*	*3003*	
JEFFERSON	*M120*	*PRECINCT 120 42 DISTRICT*	*005100*	*4001*	
JEFFERSON	*M120*	*PRECINCT 120 42 DISTRICT*	*005200*	*1002*	
JEFFERSON	*M120*	*PRECINCT 120 42 DISTRICT*	*005200*	*1004*	
JEFFERSON	*M121*	*PRECINCT 121 42 DISTRICT*	*002700*	*4047*	*0102*
JEFFERSON	*M121*	*PRECINCT 121 42 DISTRICT*	*002700*	*4065*	*0202*
JEFFERSON	*M121*	*PRECINCT 121 42 DISTRICT*	*005100*	*2006*	
JEFFERSON	*M121*	*PRECINCT 121 42 DISTRICT*	*005100*	*3006*	
JEFFERSON	*M121*	*PRECINCT 121 42 DISTRICT*	*005200*	*1000*	
JEFFERSON	*M121*	*PRECINCT 121 42 DISTRICT*	*005200*	*1001*	
JEFFERSON	*M121*	*PRECINCT 121 42 DISTRICT*	*005200*	*1003*	
JEFFERSON	*M121*	*PRECINCT 121 42 DISTRICT*	*005200*	*1005*	
JEFFERSON	*M121*	*PRECINCT 121 42 DISTRICT*	*005200*	*1006*	*0202*
JEFFERSON	*M121*	*PRECINCT 121 42 DISTRICT*	*005200*	*1012*	
JEFFERSON	*M123*	*PRECINCT 123 42 DISTRICT*			
JEFFERSON	*M124*	*PRECINCT 124 42 DISTRICT*			
JEFFERSON	*M129*	*PRECINCT 129 42 DISTRICT*			
JEFFERSON	*M130*	*PRECINCT 130 42 DISTRICT*			
JEFFERSON	*M132*	*PRECINCT 132 42 DISTRICT*	*001200*	*1000*	
JEFFERSON	*M132*	*PRECINCT 132 42 DISTRICT*	*001200*	*1008*	
JEFFERSON	*M132*	*PRECINCT 132 42 DISTRICT*	*001200*	*1009*	
JEFFERSON	*M132*	*PRECINCT 132 42 DISTRICT*	*001200*	*1010*	
JEFFERSON	*M132*	*PRECINCT 132 42 DISTRICT*	*001200*	*1011*	

JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	2000	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	2001	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	2002	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	2006	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	2010	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	2997	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	2998	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	3000	0202
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	3005	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	3006	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	3007	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	3008	0202
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	4000	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	4001	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	4002	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	4003	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	4004	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	4005	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	4006	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	4007	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	4008	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	4009	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	4010	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	4011	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	4012	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	4013	0202
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	4018	
JEFFERSON	M132		PRECINCT 132 42 DISTRICT	001200	4019	
JEFFERSON	M133		PRECINCT 133 42 DISTRICT			
JEFFERSON	M134		PRECINCT 134 42 DISTRICT			
JEFFERSON	M135		PRECINCT 135 42 DISTRICT			
JEFFERSON	O103		PRECINCT 103 44 DISTRICT			
JEFFERSON	O104		PRECINCT 104 44 DISTRICT			
JEFFERSON	O105		PRECINCT 105 44 DISTRICT			
JEFFERSON	O116		PRECINCT 116 44 DISTRICT			
JEFFERSON	O117		PRECINCT 117 44 DISTRICT			
JEFFERSON	O119		PRECINCT 119 44 DISTRICT			

SECTION 14. KRS 5.243 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Forty-third Representative District shall consist of the following territory:

				---CENSUS---		
COUNTY	PREC	SEC	NAME	TRACT	BLCK	SECT
JEFFERSON	L101		PRECINCT 101 41 DISTRICT			
JEFFERSON	L103		PRECINCT 103 41 DISTRICT			
JEFFERSON	L109		PRECINCT 109 41 DISTRICT	004900	1000	
JEFFERSON	L109		PRECINCT 109 41 DISTRICT	004900	1001	
JEFFERSON	L109		PRECINCT 109 41 DISTRICT	004900	1002	
JEFFERSON	L109		PRECINCT 109 41 DISTRICT	004900	1003	
JEFFERSON	L109		PRECINCT 109 41 DISTRICT	004900	1004	
JEFFERSON	L109		PRECINCT 109 41 DISTRICT	004900	1005	

JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1006*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1007*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1008*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1009*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1010*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1011*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1012*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1013*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1014*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1015*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1016*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1017*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1018*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1019*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1020*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1021*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1022*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1023*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1024*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1047*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1048*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1049*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1050*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1051*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1052*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1053*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1054*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1055*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1056*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1057*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1058*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1059*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1060*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1061*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1062*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1063*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1064*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1065*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1066*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1067*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1068*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1069*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1070*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1079*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1080*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1081*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1082*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1083*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1084*

JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1085*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1086*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1087*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1088*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1089*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1090*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1091*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1092*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1093*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1094*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1095*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1096*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1097*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1098*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1099*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1100*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1113*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1114*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1116*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1117*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1118*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1119*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1998*	*0202*
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*004900*	*1999*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*005900*	*1007*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*005900*	*1024*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*005900*	*1025*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*005900*	*1026*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*005900*	*1027*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*005900*	*1028*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*005900*	*1049*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*005900*	*1050*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*005900*	*1051*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*005900*	*1052*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*005900*	*1053*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*005900*	*1067*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*005900*	*1068*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*005900*	*1069*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*005900*	*2000*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*005900*	*2001*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*005900*	*3000*	
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*	*005900*	*3001*	
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*1003*	*0202*
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*1004*	
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*1005*	
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*1006*	
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*1008*	
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*1009*	
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*	*005900*	*1010*	

JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1011	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1012	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1013	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1014	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1017	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1018	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1019	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1020	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1021	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1022	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1023	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1029	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1030	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1031	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1032	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1033	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1034	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1035	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1036	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1045	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1046	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1047	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1048	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1054	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1055	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1056	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1057	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1058	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1064	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1065	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	005900	1066	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	007400	1013	0102
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	007400	1032	0102
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	007400	1033	0102
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	007400	1034	0102
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	007400	1035	0102
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	007400	1038	0102
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	007400	1039	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	007400	1040	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	007400	1997	
JEFFERSON	L113	PRECINCT 113 41 DISTRICT	007400	1998	0103
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1005	0102
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1006	0102
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1012	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1013	0202
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1014	
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1033	0202
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1034	0202
JEFFERSON	L117	PRECINCT 117 41 DISTRICT	007400	1998	0303

JEFFERSON	*L118*	*PRECINCT 118 41 DISTRICT*		
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*002300*	*1000*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*002300*	*1001*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*002300*	*1027*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*002300*	*1028*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*002300*	*1029*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*002300*	*1030*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*002300*	*1031*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*002300*	*1032*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*002400*	*2000*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*002400*	*2001*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*002400*	*2006*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1000*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1001*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1002*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1003*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1004*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1005*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1006*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1007*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1008*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1009*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1010*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1011*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1012*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1013*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1014*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1015*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1016*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1017*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1018*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1019*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1020*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1021*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1022*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1023*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1024*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1025*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*003000*	*1026*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1025*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1026*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1027*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1028*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1029*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1030*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1031*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1032*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1033*
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1034*

JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1035*	
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1036*	
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1037*	
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1038*	
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1039*	
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1040*	
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1041*	
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1042*	
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1043*	
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1044*	
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1045*	
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1046*	
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1071*	
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1072*	
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1073*	
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1074*	
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1120*	
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1121*	
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1122*	
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1997*	
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*	*004900*	*1998*	*0102*
JEFFERSON	*M103*	*PRECINCT 103 42 DISTRICT*	*001200*	*2008*	
JEFFERSON	*M132*	*PRECINCT 132 42 DISTRICT*	*001200*	*1001*	
JEFFERSON	*M132*	*PRECINCT 132 42 DISTRICT*	*001200*	*1002*	
JEFFERSON	*M132*	*PRECINCT 132 42 DISTRICT*	*001200*	*1003*	
JEFFERSON	*M132*	*PRECINCT 132 42 DISTRICT*	*001200*	*1004*	
JEFFERSON	*M132*	*PRECINCT 132 42 DISTRICT*	*001200*	*1005*	
JEFFERSON	*M132*	*PRECINCT 132 42 DISTRICT*	*001200*	*1006*	
JEFFERSON	*M132*	*PRECINCT 132 42 DISTRICT*	*001200*	*1007*	
JEFFERSON	*M132*	*PRECINCT 132 42 DISTRICT*	*001200*	*2003*	
JEFFERSON	*M132*	*PRECINCT 132 42 DISTRICT*	*001200*	*2004*	
JEFFERSON	*M132*	*PRECINCT 132 42 DISTRICT*	*001200*	*2005*	
JEFFERSON	*M132*	*PRECINCT 132 42 DISTRICT*	*001200*	*2999*	
JEFFERSON	*N101*	*PRECINCT 101 43 DISTRICT*			
JEFFERSON	*N102*	*PRECINCT 102 43 DISTRICT*			
JEFFERSON	*N103*	*PRECINCT 103 43 DISTRICT*			
JEFFERSON	*N104*	*PRECINCT 104 43 DISTRICT*			
JEFFERSON	*N105*	*PRECINCT 105 43 DISTRICT*			
JEFFERSON	*N106*	*PRECINCT 106 43 DISTRICT*			
JEFFERSON	*N107*	*PRECINCT 107 43 DISTRICT*			
JEFFERSON	*N108*	*PRECINCT 108 43 DISTRICT*			
JEFFERSON	*N109*	*PRECINCT 109 43 DISTRICT*			
JEFFERSON	*N110*	*PRECINCT 110 43 DISTRICT*			
JEFFERSON	*N111*	*PRECINCT 111 43 DISTRICT*			
JEFFERSON	*N112*	*PRECINCT 112 43 DISTRICT*			
JEFFERSON	*N113*	*PRECINCT 113 43 DISTRICT*			
JEFFERSON	*N115*	*PRECINCT 115 43 DISTRICT*			
JEFFERSON	*N117*	*PRECINCT 117 43 DISTRICT*			
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*1005*	*0102*

JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*1006*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*1007*	*0102*
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*1008*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*1009*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*1010*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*1011*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*1012*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*1028*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*1029*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*1031*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*1032*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*1033*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*1034*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*1035*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*1036*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*2003*	*0102*
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*2005*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*2006*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*2008*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*2009*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*2010*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*2011*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*2014*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*2015*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*000600*	*2016*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*001000*	*1001*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*001000*	*1002*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*001000*	*1003*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*001000*	*1004*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*001000*	*1005*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*001000*	*1007*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*001000*	*1008*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*001000*	*2002*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*001000*	*2003*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*001000*	*2004*	*0202*
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*001100*	*1000*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*001100*	*1001*	
JEFFERSON	*N118*	*PRECINCT 118 43 DISTRICT*	*001100*	*1016*	*0202*
JEFFERSON	*N119*	*PRECINCT 119 43 DISTRICT*			
JEFFERSON	*N121*	*PRECINCT 121 43 DISTRICT*			
JEFFERSON	*N124*	*PRECINCT 124 43 DISTRICT*			
JEFFERSON	*S101*	*PRECINCT 101 48 DISTRICT*			
JEFFERSON	*S102*	*PRECINCT 102 48 DISTRICT*	*007501*	*2035*	*0102*
JEFFERSON	*S102*	*PRECINCT 102 48 DISTRICT*	*007501*	*3000*	*0102*
JEFFERSON	*S102*	*PRECINCT 102 48 DISTRICT*	*007501*	*3001*	*0102*
JEFFERSON	*S102*	*PRECINCT 102 48 DISTRICT*	*007501*	*3002*	
JEFFERSON	*S102*	*PRECINCT 102 48 DISTRICT*	*007501*	*3003*	
JEFFERSON	*S102*	*PRECINCT 102 48 DISTRICT*	*007501*	*3006*	
JEFFERSON	*S102*	*PRECINCT 102 48 DISTRICT*	*007501*	*3999*	*0102*

SECTION 15. KRS 5.244 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Forty-fourth Representative District shall consist of the following territory:

					---CENSUS---	
COUNTY	*PREC*	*SEC*	*NAME*	*TRACT*	*BLCK*	*SECT*
JEFFERSON	*A105*		*PRECINCT 105 28 DISTRICT*			
JEFFERSON	*A107*		*PRECINCT 107 28 DISTRICT*			
JEFFERSON	*A117*		*PRECINCT 117 28 DISTRICT*			
JEFFERSON	*A119*		*PRECINCT 119 28 DISTRICT*	*012103*	*1005*	
JEFFERSON	*A119*		*PRECINCT 119 28 DISTRICT*	*012103*	*3004*	*0202*
JEFFERSON	*A120*		*PRECINCT 120 28 DISTRICT*			
JEFFERSON	*A121*		*PRECINCT 121 28 DISTRICT*	*012104*	*1023*	
JEFFERSON	*A121*		*PRECINCT 121 28 DISTRICT*	*012104*	*1024*	*0202*
JEFFERSON	*A121*		*PRECINCT 121 28 DISTRICT*	*012104*	*1999*	*0102*
JEFFERSON	*A133*		*PRECINCT 133 28 DISTRICT*			
JEFFERSON	*K119*		*PRECINCT 119 40 DISTRICT*			
JEFFERSON	*K126*		*PRECINCT 126 40 DISTRICT*			
JEFFERSON	*K127*		*PRECINCT 127 40 DISTRICT*			
JEFFERSON	*K128*		*PRECINCT 128 40 DISTRICT*			
JEFFERSON	*K131*		*PRECINCT 131 40 DISTRICT*	*012301*	*3000*	
JEFFERSON	*K131*		*PRECINCT 131 40 DISTRICT*	*012301*	*3006*	
JEFFERSON	*K131*		*PRECINCT 131 40 DISTRICT*	*012302*	*2003*	
JEFFERSON	*K131*		*PRECINCT 131 40 DISTRICT*	*012501*	*1002*	
JEFFERSON	*K131*		*PRECINCT 131 40 DISTRICT*	*012501*	*1003*	
JEFFERSON	*K131*		*PRECINCT 131 40 DISTRICT*	*012501*	*1004*	
JEFFERSON	*K131*		*PRECINCT 131 40 DISTRICT*	*012501*	*1005*	
JEFFERSON	*K131*		*PRECINCT 131 40 DISTRICT*	*012501*	*1006*	
JEFFERSON	*K131*		*PRECINCT 131 40 DISTRICT*	*012501*	*1007*	
JEFFERSON	*K131*		*PRECINCT 131 40 DISTRICT*	*012501*	*1008*	
JEFFERSON	*K131*		*PRECINCT 131 40 DISTRICT*	*012501*	*1009*	
JEFFERSON	*K131*		*PRECINCT 131 40 DISTRICT*	*012501*	*1010*	
JEFFERSON	*K131*		*PRECINCT 131 40 DISTRICT*	*012501*	*1011*	
JEFFERSON	*K131*		*PRECINCT 131 40 DISTRICT*	*012501*	*1012*	
JEFFERSON	*K131*		*PRECINCT 131 40 DISTRICT*	*012501*	*1013*	
JEFFERSON	*K131*		*PRECINCT 131 40 DISTRICT*	*012501*	*1014*	
JEFFERSON	*K131*		*PRECINCT 131 40 DISTRICT*	*012501*	*1015*	
JEFFERSON	*K131*		*PRECINCT 131 40 DISTRICT*	*012502*	*2000*	
JEFFERSON	*K131*		*PRECINCT 131 40 DISTRICT*	*012502*	*2001*	
JEFFERSON	*K132*		*PRECINCT 132 40 DISTRICT*			
JEFFERSON	*O107*		*PRECINCT 107 44 DISTRICT*			
JEFFERSON	*O109*		*PRECINCT 109 44 DISTRICT*			
JEFFERSON	*O111*		*PRECINCT 111 44 DISTRICT*			
JEFFERSON	*O112*		*PRECINCT 112 44 DISTRICT*			
JEFFERSON	*O113*		*PRECINCT 113 44 DISTRICT*			
JEFFERSON	*O114*		*PRECINCT 114 44 DISTRICT*			
JEFFERSON	*O115*		*PRECINCT 115 44 DISTRICT*			
JEFFERSON	*O121*		*PRECINCT 121 44 DISTRICT*			
JEFFERSON	*O123*		*PRECINCT 123 44 DISTRICT*			
JEFFERSON	*O124*		*PRECINCT 124 44 DISTRICT*			
JEFFERSON	*O126*		*PRECINCT 126 44 DISTRICT*			

JEFFERSON	*0127*	*PRECINCT 127 44 DISTRICT*
JEFFERSON	*0128*	*PRECINCT 128 44 DISTRICT*
JEFFERSON	*0129*	*PRECINCT 129 44 DISTRICT*
JEFFERSON	*0130*	*PRECINCT 130 44 DISTRICT*
JEFFERSON	*0131*	*PRECINCT 131 44 DISTRICT*

SECTION 16. KRS 5.246 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Forty-sixth Representative District shall consist of the following territory:

				---CENSUS---		
COUNTY	*PREC*	*SEC*	*NAME*	*TRACT*	*BLCK*	*SECT*
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011200*	*1010*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*1008*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*1009*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*2000*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*2001*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*2002*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*2003*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*2004*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*2005*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*2006*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*2007*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*2008*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*2009*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*2023*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*2024*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*2025*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*2026*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*2027*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*2028*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*3000*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*3001*	
JEFFERSON	*C102*		*PRECINCT 102 30 DISTRICT*	*011200*	*1011*	
JEFFERSON	*C102*		*PRECINCT 102 30 DISTRICT*	*011200*	*1014*	
JEFFERSON	*C102*		*PRECINCT 102 30 DISTRICT*	*011200*	*1015*	
JEFFERSON	*C102*		*PRECINCT 102 30 DISTRICT*	*011200*	*5002*	
JEFFERSON	*C102*		*PRECINCT 102 30 DISTRICT*	*011200*	*5003*	
JEFFERSON	*C102*		*PRECINCT 102 30 DISTRICT*	*011200*	*5004*	
JEFFERSON	*C102*		*PRECINCT 102 30 DISTRICT*	*011200*	*5005*	
JEFFERSON	*C102*		*PRECINCT 102 30 DISTRICT*	*011200*	*5013*	
JEFFERSON	*C102*		*PRECINCT 102 30 DISTRICT*	*011200*	*5014*	
JEFFERSON	*C102*		*PRECINCT 102 30 DISTRICT*	*011200*	*5015*	
JEFFERSON	*C102*		*PRECINCT 102 30 DISTRICT*	*011200*	*6000*	*0102*
JEFFERSON	*C102*		*PRECINCT 102 30 DISTRICT*	*011200*	*6006*	
JEFFERSON	*C102*		*PRECINCT 102 30 DISTRICT*	*011200*	*6007*	
JEFFERSON	*C103*		*PRECINCT 103 30 DISTRICT*			
JEFFERSON	*C104*		*PRECINCT 104 30 DISTRICT*	*011404*	*1000*	
JEFFERSON	*C104*		*PRECINCT 104 30 DISTRICT*	*011404*	*1001*	
JEFFERSON	*C104*		*PRECINCT 104 30 DISTRICT*	*011404*	*1002*	
JEFFERSON	*C104*		*PRECINCT 104 30 DISTRICT*	*011404*	*1008*	
JEFFERSON	*C104*		*PRECINCT 104 30 DISTRICT*	*011404*	*1009*	

JEFFERSON	*C105*	*PRECINCT 105 30 DISTRICT*			
JEFFERSON	*C106*	*PRECINCT 106 30 DISTRICT*	*011002*	*2015*	
JEFFERSON	*C106*	*PRECINCT 106 30 DISTRICT*	*011002*	*2016*	
JEFFERSON	*C106*	*PRECINCT 106 30 DISTRICT*	*011002*	*2017*	
JEFFERSON	*C106*	*PRECINCT 106 30 DISTRICT*	*011002*	*3008*	
JEFFERSON	*C106*	*PRECINCT 106 30 DISTRICT*	*011002*	*3010*	
JEFFERSON	*C106*	*PRECINCT 106 30 DISTRICT*	*011002*	*3011*	*0202*
JEFFERSON	*C106*	*PRECINCT 106 30 DISTRICT*	*011002*	*3012*	*0202*
JEFFERSON	*C108*	*PRECINCT 108 30 DISTRICT*			
JEFFERSON	*C109*	*PRECINCT 109 30 DISTRICT*			
JEFFERSON	*C110*	*PRECINCT 110 30 DISTRICT*			
JEFFERSON	*C111*	*PRECINCT 111 30 DISTRICT*			
JEFFERSON	*C113*	*PRECINCT 113 30 DISTRICT*			
JEFFERSON	*C115*	*PRECINCT 115 30 DISTRICT*	*011002*	*3002*	
JEFFERSON	*C115*	*PRECINCT 115 30 DISTRICT*	*011002*	*3003*	
JEFFERSON	*C115*	*PRECINCT 115 30 DISTRICT*	*011002*	*3004*	
JEFFERSON	*C115*	*PRECINCT 115 30 DISTRICT*	*011002*	*3005*	
JEFFERSON	*C115*	*PRECINCT 115 30 DISTRICT*	*011002*	*3006*	
JEFFERSON	*C115*	*PRECINCT 115 30 DISTRICT*	*011002*	*3007*	*0102*
JEFFERSON	*C115*	*PRECINCT 115 30 DISTRICT*	*011002*	*3009*	
JEFFERSON	*C125*	*PRECINCT 125 30 DISTRICT*	*011200*	*1000*	
JEFFERSON	*C125*	*PRECINCT 125 30 DISTRICT*	*011200*	*1001*	
JEFFERSON	*C125*	*PRECINCT 125 30 DISTRICT*	*011200*	*1002*	
JEFFERSON	*C125*	*PRECINCT 125 30 DISTRICT*	*011200*	*2004*	
JEFFERSON	*C125*	*PRECINCT 125 30 DISTRICT*	*011200*	*6000*	*0202*
JEFFERSON	*C125*	*PRECINCT 125 30 DISTRICT*	*011200*	*6001*	
JEFFERSON	*C125*	*PRECINCT 125 30 DISTRICT*	*011200*	*6002*	
JEFFERSON	*C125*	*PRECINCT 125 30 DISTRICT*	*011200*	*6003*	
JEFFERSON	*C126*	*PRECINCT 126 30 DISTRICT*			
JEFFERSON	*H134*	*PRECINCT 134 35 DISTRICT*	*011800*	*4014*	
JEFFERSON	*H134*	*PRECINCT 134 35 DISTRICT*	*011800*	*4015*	
JEFFERSON	*Q101*	*PRECINCT 101 46 DISTRICT*			
JEFFERSON	*Q103*	*PRECINCT 103 46 DISTRICT*			
JEFFERSON	*Q104*	*PRECINCT 104 46 DISTRICT*			
JEFFERSON	*Q105*	*PRECINCT 105 46 DISTRICT*			
JEFFERSON	*Q107*	*PRECINCT 107 46 DISTRICT*	*011505*	*1000*	
JEFFERSON	*Q107*	*PRECINCT 107 46 DISTRICT*	*011505*	*1001*	
JEFFERSON	*Q107*	*PRECINCT 107 46 DISTRICT*	*011505*	*1002*	
JEFFERSON	*Q107*	*PRECINCT 107 46 DISTRICT*	*011505*	*1003*	*0202*
JEFFERSON	*Q107*	*PRECINCT 107 46 DISTRICT*	*011505*	*1007*	
JEFFERSON	*Q107*	*PRECINCT 107 46 DISTRICT*	*011505*	*5000*	*0202*
JEFFERSON	*Q112*	*PRECINCT 112 46 DISTRICT*			
JEFFERSON	*Q113*	*PRECINCT 113 46 DISTRICT*			
JEFFERSON	*Q114*	*PRECINCT 114 46 DISTRICT*			
JEFFERSON	*Q116*	*PRECINCT 116 46 DISTRICT*			
JEFFERSON	*Q122*	*PRECINCT 122 46 DISTRICT*			
JEFFERSON	*Q123*	*PRECINCT 123 46 DISTRICT*			
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*4000*	
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*4001*	

JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*4002*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*4003*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*4004*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5001*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5002*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5003*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5004*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5005*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5006*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5007*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5008*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5009*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5010*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5012*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5013*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*2000*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*2001*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*2002*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*2009*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*2010*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*2011*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*4000*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*4001*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*4011*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*4012*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*4013*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*4016*
JEFFERSON	*Q127*	*PRECINCT 127 46 DISTRICT*		

SECTION 17. KRS 5.248 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Forty-eighth Representative District shall consist of the following territory:

				---CENSUS---		
COUNTY	*PREC*	*SEC*	*NAME*	*TRACT*	*BLCK*	*SECT*
JEFFERSON	*E153*		*PRECINCT 153 32 DISTRICT*			
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1023*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1026*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1036*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1037*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1038*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1039*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1040*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1041*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1042*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1043*	
JEFFERSON	*F101*		*PRECINCT 101 33 DISTRICT*	*010309*	*1044*	
JEFFERSON	*F103*		*PRECINCT 103 33 DISTRICT*			
JEFFERSON	*F134*		*PRECINCT 134 33 DISTRICT*			
JEFFERSON	*F142*		*PRECINCT 142 33 DISTRICT*			
JEFFERSON	*F144*		*PRECINCT 144 33 DISTRICT*			
JEFFERSON	*S103*		*PRECINCT 103 48 DISTRICT*			

JEFFERSON	*S116*	*PRECINCT 116 48 DISTRICT*		
JEFFERSON	*S117*	*PRECINCT 117 48 DISTRICT*		
JEFFERSON	*S118*	*PRECINCT 118 48 DISTRICT*		
JEFFERSON	*S119*	*PRECINCT 119 48 DISTRICT*		
JEFFERSON	*S122*	*PRECINCT 122 48 DISTRICT*		
JEFFERSON	*S125*	*PRECINCT 125 48 DISTRICT*		
JEFFERSON	*S126*	*PRECINCT 126 48 DISTRICT*		
JEFFERSON	*S128*	*PRECINCT 128 48 DISTRICT*		
JEFFERSON	*S129*	*PRECINCT 129 48 DISTRICT*		
JEFFERSON	*S130*	*PRECINCT 130 48 DISTRICT*		
JEFFERSON	*S131*	*PRECINCT 131 48 DISTRICT*		
JEFFERSON	*S132*	*PRECINCT 132 48 DISTRICT*		
JEFFERSON	*S133*	*PRECINCT 133 48 DISTRICT*		
JEFFERSON	*S135*	*PRECINCT 135 48 DISTRICT*		
JEFFERSON	*S136*	*PRECINCT 136 48 DISTRICT*		
JEFFERSON	*S137*	*PRECINCT 137 48 DISTRICT*		
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010303*	*1005*
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010303*	*2000*
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010303*	*2001*
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010303*	*2002*
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010303*	*2003*
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010303*	*2004*
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010303*	*2005*
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010303*	*2006*
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010303*	*2007*
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010303*	*2012*
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010303*	*2013*
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010303*	*2014*
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010303*	*2015*
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010303*	*2016*
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010310*	*1022*
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010310*	*1023*
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010310*	*1024*
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010311*	*1005*
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010311*	*1006*
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010311*	*1007*
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010311*	*1008*
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010311*	*1009*
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010311*	*1010*
JEFFERSON	*S139*	*PRECINCT 139 48 DISTRICT*	*010311*	*1011*
JEFFERSON	*S140*	*PRECINCT 140 48 DISTRICT*		
JEFFERSON	*S141*	*PRECINCT 141 48 DISTRICT*		
JEFFERSON	*S142*	*PRECINCT 142 48 DISTRICT*		
JEFFERSON	*S143*	*PRECINCT 143 48 DIST*		
JEFFERSON	*S144*	*PRECINCT 144 48 DISTRICT*		

SECTION 188. KRS 5.119 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Nineteenth Senatorial District shall consist of the following territory:

				---CENSUS---		
COUNTY	*PREC*	*SEC*	*NAME*	*TRACT*	*BLCK*	*SECT*

JEFFERSON	C101	PRECINCT 101 30 DISTRICT	011301	3001	
JEFFERSON	C101	PRECINCT 101 30 DISTRICT	011301	3002	
JEFFERSON	C101	PRECINCT 101 30 DISTRICT	011301	3003	
JEFFERSON	C101	PRECINCT 101 30 DISTRICT	011301	3006	0102
JEFFERSON	C101	PRECINCT 101 30 DISTRICT	011301	3007	
JEFFERSON	C101	PRECINCT 101 30 DISTRICT	011301	3008	
JEFFERSON	C101	PRECINCT 101 30 DISTRICT	011301	3009	0202
JEFFERSON	C101	PRECINCT 101 30 DISTRICT	011301	3010	0203
JEFFERSON	C101	PRECINCT 101 30 DISTRICT	011301	3010	0303
JEFFERSON	C101	PRECINCT 101 30 DISTRICT	011301	3011	0103
JEFFERSON	C101	PRECINCT 101 30 DISTRICT	011301	3011	0203
JEFFERSON	C101	PRECINCT 101 30 DISTRICT	011301	3012	
JEFFERSON	C101	PRECINCT 101 30 DISTRICT	011301	3013	
JEFFERSON	C101	PRECINCT 101 30 DISTRICT	011301	3015	
JEFFERSON	C101	PRECINCT 101 30 DISTRICT	011301	3016	0303
JEFFERSON	C101	PRECINCT 101 30 DISTRICT	011301	3017	
JEFFERSON	C101	PRECINCT 101 30 DISTRICT	011301	3018	
JEFFERSON	C101	PRECINCT 101 30 DISTRICT	011301	3019	
JEFFERSON	C101	PRECINCT 101 30 DISTRICT	011301	3020	
JEFFERSON	C101	PRECINCT 101 30 DISTRICT	011301	3021	
JEFFERSON	C101	PRECINCT 101 30 DISTRICT	011301	3022	
JEFFERSON	C101	PRECINCT 101 30 DISTRICT	011301	3023	
JEFFERSON	C121	PRECINCT 121 30 DISTRICT			
JEFFERSON	C122	PRECINCT 122 30 DISTRICT			
JEFFERSON	C123	PRECINCT 123 30 DISTRICT			
JEFFERSON	C124	PRECINCT 124 30 DISTRICT			
JEFFERSON	C127	PRECINCT 127 30 DISTRICT			
JEFFERSON	C128	PRECINCT 128 30 DISTRICT			
JEFFERSON	C129	PRECINCT 129 30 DISTRICT			
JEFFERSON	C130	PRECINCT 130 30 DISTRICT			
JEFFERSON	C131	PRECINCT 131 30 DISTRICT			
JEFFERSON	D101	PRECINCT 101 31 DISTRICT			
JEFFERSON	D104	PRECINCT 104 31 DISTRICT			
JEFFERSON	D105	PRECINCT 105 31 DISTRICT			
JEFFERSON	D106	PRECINCT 106 31 DISTRICT			
JEFFERSON	D108	PRECINCT 108 31 DISTRICT			
JEFFERSON	D109	PRECINCT 109 31 DISTRICT			
JEFFERSON	D110	PRECINCT 110 31 DISTRICT			
JEFFERSON	D114	PRECINCT 114 31 DISTRICT			
JEFFERSON	D115	PRECINCT 115 31 DISTRICT			
JEFFERSON	D116	PRECINCT 116 31 DISTRICT			
JEFFERSON	D117	PRECINCT 117 31 DISTRICT			
JEFFERSON	D120	PRECINCT 120 31 DISTRICT			
JEFFERSON	D122	PRECINCT 122 31 DISTRICT			
JEFFERSON	D129	PRECINCT 129 31 DISTRICT			
JEFFERSON	D130	PRECINCT 130 31 DISTRICT			
JEFFERSON	D131	PRECINCT 131 31 DISTRICT			
JEFFERSON	D132	PRECINCT 132 31 DISTRICT			
JEFFERSON	D134	PRECINCT 134 31 DISTRICT			

JEFFERSON	D135	PRECINCT 135 31 DIST			
JEFFERSON	D136	PRECINCT 136 31 DIST			
JEFFERSON	D138	PRECINCT 138 31 DIST			
JEFFERSON	D139	PRECINCT 139 31 DISTRICT			
JEFFERSON	E110	PRECINCT 110 32 DISTRICT			
JEFFERSON	E111	PRECINCT 111 32 DISTRICT			
JEFFERSON	E112	PRECINCT 112 32 DISTRICT			
JEFFERSON	E114	PRECINCT 114 32 DISTRICT			
JEFFERSON	E116	PRECINCT 116 32 DISTRICT			
JEFFERSON	E118	PRECINCT 118 32 DISTRICT			
JEFFERSON	E119	PRECINCT 119 32 DISTRICT			
JEFFERSON	E120	PRECINCT 120 32 DISTRICT			
JEFFERSON	E126	PRECINCT 126 32 DISTRICT			
JEFFERSON	E130	PRECINCT 130 32 DISTRICT			
JEFFERSON	E138	PRECINCT 138 32 DISTRICT			
JEFFERSON	E139	PRECINCT 139 32 DISTRICT			
JEFFERSON	E140	PRECINCT 140 32 DISTRICT			
JEFFERSON	E143	PRECINCT 143 32 DISTRICT			
JEFFERSON	E156	PRECINCT 156 32 DISTRICT			
JEFFERSON	F122	PRECINCT 122 33 DISTRICT			
JEFFERSON	F125	PRECINCT 125 33 DISTRICT			
JEFFERSON	F140	PRECINCT 140 33 DIST			
JEFFERSON	G103	PRECINCT 103 34 DISTRICT	008300	2004	0202
JEFFERSON	G103	PRECINCT 103 34 DISTRICT	008300	2005	0102
JEFFERSON	G103	PRECINCT 103 34 DISTRICT	008300	2006	0202
JEFFERSON	G108	PRECINCT 108 34 DISTRICT			
JEFFERSON	G109	PRECINCT 109 34 DISTRICT			
JEFFERSON	G111	PRECINCT 111 34 DISTRICT			
JEFFERSON	G112	PRECINCT 112 34 DISTRICT			
JEFFERSON	G116	PRECINCT 116 34 DISTRICT			
JEFFERSON	G117	PRECINCT 117 34 DISTRICT			
JEFFERSON	G119	PRECINCT 119 34 DISTRICT			
JEFFERSON	G120	PRECINCT 120 34 DISTRICT			
JEFFERSON	G121	PRECINCT 121 34 DISTRICT			
JEFFERSON	G122	PRECINCT 122 34 DISTRICT			
JEFFERSON	G123	PRECINCT 123 34 DISTRICT			
JEFFERSON	G124	PRECINCT 124 34 DISTRICT			
JEFFERSON	G126	PRECINCT 126 34 DISTRICT			
JEFFERSON	G129	PRECINCT 129 34 DISTRICT			
JEFFERSON	G140	PRECINCT 140 34 DISTRICT			
JEFFERSON	G141	PRECINCT 141 34 DISTRICT			
JEFFERSON	G142	PRECINCT 142 34 DISTRICT			
JEFFERSON	G143	PRECINCT 143 34 DISTRICT			
JEFFERSON	G144	PRECINCT 144 34 DISTRICT			
JEFFERSON	G145	PRECINCT 145 34 DISTRICT			
JEFFERSON	G146	PRECINCT 146 34 DISTRICT			
JEFFERSON	G147	PRECINCT 147 34 DISTRICT			
JEFFERSON	G148	PRECINCT 148 34 DISTRICT			
JEFFERSON	G149	PRECINCT 149 34 DISTRICT			

JEFFERSON	*G150*		*PRECINCT 150 34 DISTRICT*			
JEFFERSON	*G151*		*PRECINCT 151 34 DISTRICT*			
JEFFERSON	*G153*		*PRECINCT 153 34 DISTRICT*			
JEFFERSON	*H102*		*PRECINCT 102 35 DISTRICT*	*006900*	*2002*	
JEFFERSON	*H103*		*PRECINCT 103 35 DISTRICT*			
JEFFERSON	*H105*		*PRECINCT 105 35 DISTRICT*			
JEFFERSON	*H106*		*PRECINCT 106 35 DISTRICT*			
JEFFERSON	*H109*		*PRECINCT 109 35 DISTRICT*			
JEFFERSON	*H110*		*PRECINCT 110 35 DISTRICT*			
JEFFERSON	*H111*		*PRECINCT 111 35 DISTRICT*			
JEFFERSON	*H112*		*PRECINCT 112 35 DISTRICT*			
JEFFERSON	*H113*		*PRECINCT 113 35 DISTRICT*			
JEFFERSON	*H115*		*PRECINCT 115 35 DISTRICT*			
JEFFERSON	*H116*		*PRECINCT 116 35 DISTRICT*			
JEFFERSON	*H117*		*PRECINCT 117 35 DISTRICT*			
JEFFERSON	*H118*		*PRECINCT 118 35 DISTRICT*			
JEFFERSON	*H120*		*PRECINCT 120 35 DISTRICT*			
JEFFERSON	*H121*		*PRECINCT 121 35 DISTRICT*			
JEFFERSON	*H141*		*PRECINCT 141 35 DISTRICT*			
JEFFERSON	*L129*		*PRECINCT 129 41 DISTRICT*			
JEFFERSON	*R105*		*PRECINCT 105 47 DISTRICT*			
JEFFERSON	*R106*		*PRECINCT 106 47 DISTRICT*			
JEFFERSON	*R131*		*PRECINCT 131 47 DISTRICT*			
JEFFERSON	*R139*		*PRECINCT 139 47 DISTRICT*			

SECTION 19. KRS 5.133 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Thirty-third Senatorial District shall consist of the following territory:

				---CENSUS---		
COUNTY	*PREC*	*SEC*	*NAME*	*TRACT*	*BLCK*	*SECT*
JEFFERSON	*J101*		*PRECINCT 101 38 DISTRICT*			
JEFFERSON	*J104*		*PRECINCT 104 38 DISTRICT*			
JEFFERSON	*J107*		*PRECINCT 107 38 DISTRICT*			
JEFFERSON	*K107*		*PRECINCT 107 40 DISTRICT*			
JEFFERSON	*K108*		*PRECINCT 108 40 DISTRICT*	*001600*	*2007*	
JEFFERSON	*K108*		*PRECINCT 108 40 DISTRICT*	*001600*	*3000*	
JEFFERSON	*K108*		*PRECINCT 108 40 DISTRICT*	*001600*	*3008*	
JEFFERSON	*K108*		*PRECINCT 108 40 DISTRICT*	*002800*	*2003*	
JEFFERSON	*K108*		*PRECINCT 108 40 DISTRICT*	*002800*	*2004*	
JEFFERSON	*K108*		*PRECINCT 108 40 DISTRICT*	*002800*	*2005*	
JEFFERSON	*K108*		*PRECINCT 108 40 DISTRICT*	*012801*	*3000*	
JEFFERSON	*K108*		*PRECINCT 108 40 DISTRICT*	*012801*	*3007*	
JEFFERSON	*K113*		*PRECINCT 113 40 DISTRICT*			
JEFFERSON	*K118*		*PRECINCT 118 40 DISTRICT*			
JEFFERSON	*K121*		*PRECINCT 121 40 DISTRICT*			
JEFFERSON	*K122*		*PRECINCT 122 40 DISTRICT*	*012801*	*1012*	*0102*
JEFFERSON	*K122*		*PRECINCT 122 40 DISTRICT*	*012801*	*1014*	
JEFFERSON	*K122*		*PRECINCT 122 40 DISTRICT*	*012801*	*1015*	
JEFFERSON	*K122*		*PRECINCT 122 40 DISTRICT*	*012801*	*1016*	
JEFFERSON	*K122*		*PRECINCT 122 40 DISTRICT*	*012801*	*1028*	*0202*
JEFFERSON	*K122*		*PRECINCT 122 40 DISTRICT*	*012802*	*1000*	*0202*

JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	1012
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	1013
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	1014
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	1015
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	1018
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	1019
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	1020
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	1021
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	1022
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	1023
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	1024
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	1025
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	1026
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	1027
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	2000
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	2002
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	2003
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	2004
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	2005
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	2006
JEFFERSON	K122	PRECINCT 122 40 DISTRICT	012802	2007
JEFFERSON	K123	PRECINCT 123 40 DISTRICT		
JEFFERSON	K125	PRECINCT 125 40 DISTRICT		
JEFFERSON	K130	PRECINCT 130 40 DISTRICT		
JEFFERSON	K131	PRECINCT 131 40 DISTRICT		
JEFFERSON	L101	PRECINCT 101 41 DISTRICT		
JEFFERSON	L103	PRECINCT 103 41 DISTRICT		
JEFFERSON	L104	PRECINCT 104 41 DISTRICT		
JEFFERSON	L107	PRECINCT 107 41 DISTRICT		
JEFFERSON	M102	PRECINCT 102 42 DISTRICT		
JEFFERSON	M103	PRECINCT 103 42 DISTRICT		
JEFFERSON	M104	PRECINCT 104 42 DISTRICT		
JEFFERSON	M105	PRECINCT 105 42 DISTRICT		
JEFFERSON	M106	PRECINCT 106 42 DISTRICT		
JEFFERSON	M107	PRECINCT 107 42 DISTRICT		
JEFFERSON	M110	PRECINCT 110 42 DISTRICT		
JEFFERSON	M113	PRECINCT 113 42 DISTRICT		
JEFFERSON	M114	PRECINCT 114 42 DISTRICT		
JEFFERSON	M129	PRECINCT 129 42 DISTRICT		
JEFFERSON	M130	PRECINCT 130 42 DISTRICT		
JEFFERSON	M132	PRECINCT 132 42 DISTRICT		
JEFFERSON	M133	PRECINCT 133 42 DISTRICT		
JEFFERSON	M134	PRECINCT 134 42 DISTRICT		
JEFFERSON	M135	PRECINCT 135 42 DISTRICT		
JEFFERSON	N101	PRECINCT 101 43 DISTRICT		
JEFFERSON	N102	PRECINCT 102 43 DISTRICT		
JEFFERSON	N103	PRECINCT 103 43 DISTRICT		
JEFFERSON	N104	PRECINCT 104 43 DISTRICT		
JEFFERSON	N105	PRECINCT 105 43 DISTRICT		

JEFFERSON	*N106*		*PRECINCT 106 43 DISTRICT*			
JEFFERSON	*N107*		*PRECINCT 107 43 DISTRICT*			
JEFFERSON	*N108*		*PRECINCT 108 43 DISTRICT*			
JEFFERSON	*N109*		*PRECINCT 109 43 DISTRICT*			
JEFFERSON	*N110*		*PRECINCT 110 43 DISTRICT*			
JEFFERSON	*N111*		*PRECINCT 111 43 DISTRICT*			
JEFFERSON	*N112*		*PRECINCT 112 43 DISTRICT*			
JEFFERSON	*N113*		*PRECINCT 113 43 DISTRICT*			
JEFFERSON	*N115*		*PRECINCT 115 43 DISTRICT*			
JEFFERSON	*N117*		*PRECINCT 117 43 DISTRICT*			
JEFFERSON	*N118*		*PRECINCT 118 43 DISTRICT*			
JEFFERSON	*N119*		*PRECINCT 119 43 DISTRICT*			
JEFFERSON	*N121*		*PRECINCT 121 43 DISTRICT*			
JEFFERSON	*N122*		*PRECINCT 122 43 DISTRICT*			
JEFFERSON	*N124*		*PRECINCT 124 43 DISTRICT*			
JEFFERSON	*O103*		*PRECINCT 103 44 DISTRICT*			
JEFFERSON	*O104*		*PRECINCT 104 44 DISTRICT*			
JEFFERSON	*O105*		*PRECINCT 105 44 DISTRICT*			
JEFFERSON	*O107*		*PRECINCT 107 44 DISTRICT*			
JEFFERSON	*O109*		*PRECINCT 109 44 DISTRICT*			
JEFFERSON	*O111*		*PRECINCT 111 44 DISTRICT*			
JEFFERSON	*O113*		*PRECINCT 113 44 DISTRICT*	*012503*	*1003*	
JEFFERSON	*O113*		*PRECINCT 113 44 DISTRICT*	*012503*	*1004*	
JEFFERSON	*O113*		*PRECINCT 113 44 DISTRICT*	*012503*	*1005*	
JEFFERSON	*O116*		*PRECINCT 116 44 DISTRICT*			
JEFFERSON	*O117*		*PRECINCT 117 44 DISTRICT*			
JEFFERSON	*O119*		*PRECINCT 119 44 DISTRICT*			
JEFFERSON	*O121*		*PRECINCT 121 44 DISTRICT*			
JEFFERSON	*O123*		*PRECINCT 123 44 DISTRICT*			
JEFFERSON	*O124*		*PRECINCT 124 44 DISTRICT*			
JEFFERSON	*O126*		*PRECINCT 126 44 DISTRICT*			
JEFFERSON	*O130*		*PRECINCT 130 44 DISTRICT*	*012503*	*2005*	
JEFFERSON	*O130*		*PRECINCT 130 44 DISTRICT*	*012503*	*2006*	

SECTION 20. KRS 5.135 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Thirty-fifth Senatorial District shall consist of the following territory:

				---CENSUS---		
COUNTY	*PREC*	*SEC*	*NAME*	*TRACT*	*BLCK*	*SECT*
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011200*	*1004*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011200*	*1005*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011200*	*1006*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011200*	*1010*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*1008*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*1009*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*2000*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*2001*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*2002*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*2003*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*2004*	
JEFFERSON	*C101*		*PRECINCT 101 30 DISTRICT*	*011301*	*2005*	

JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2006*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2007*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2008*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2009*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2010*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2011*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2012*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2013*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2014*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2015*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2016*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2017*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2018*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2019*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2020*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2021*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2022*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2023*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2024*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2025*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2026*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2027*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*2028*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3000*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011301*	*3024*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011403*	*1004*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011403*	*1006*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011403*	*1011*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011403*	*1020*
JEFFERSON	*C101*	*PRECINCT 101 30 DISTRICT*	*011403*	*1021*
JEFFERSON	*C102*	*PRECINCT 102 30 DISTRICT*		
JEFFERSON	*C103*	*PRECINCT 103 30 DISTRICT*		
JEFFERSON	*C104*	*PRECINCT 104 30 DISTRICT*		
JEFFERSON	*C105*	*PRECINCT 105 30 DISTRICT*		
JEFFERSON	*C106*	*PRECINCT 106 30 DISTRICT*		
JEFFERSON	*C108*	*PRECINCT 108 30 DISTRICT*		
JEFFERSON	*C109*	*PRECINCT 109 30 DISTRICT*		
JEFFERSON	*C110*	*PRECINCT 110 30 DISTRICT*		
JEFFERSON	*C111*	*PRECINCT 111 30 DISTRICT*		
JEFFERSON	*C113*	*PRECINCT 113 30 DISTRICT*		
JEFFERSON	*C115*	*PRECINCT 115 30 DISTRICT*		
JEFFERSON	*C125*	*PRECINCT 125 30 DISTRICT*		
JEFFERSON	*C126*	*PRECINCT 126 30 DISTRICT*		
JEFFERSON	*D113*	*PRECINCT 113 31 DISTRICT*		
JEFFERSON	*F118*	*PRECINCT 118 33 DISTRICT*		
JEFFERSON	*F119*	*PRECINCT 119 33 DISTRICT*		
JEFFERSON	*F120*	*PRECINCT 120 33 DISTRICT*		
JEFFERSON	*F121*	*PRECINCT 121 33 DISTRICT*		
JEFFERSON	*G103*	*PRECINCT 103 34 DISTRICT*	*006400*	*1000*

JEFFERSON	G103	PRECINCT 103 34 DISTRICT	006400	1006	
JEFFERSON	G103	PRECINCT 103 34 DISTRICT	006400	1007	
JEFFERSON	G103	PRECINCT 103 34 DISTRICT	006400	1008	
JEFFERSON	G103	PRECINCT 103 34 DISTRICT	006400	2000	
JEFFERSON	G103	PRECINCT 103 34 DISTRICT	006400	2003	
JEFFERSON	G103	PRECINCT 103 34 DISTRICT	006400	2004	
JEFFERSON	G103	PRECINCT 103 34 DISTRICT	006400	2005	
JEFFERSON	G103	PRECINCT 103 34 DISTRICT	006400	2006	
JEFFERSON	G103	PRECINCT 103 34 DISTRICT	006400	2008	
JEFFERSON	G103	PRECINCT 103 34 DISTRICT	006400	2009	
JEFFERSON	G103	PRECINCT 103 34 DISTRICT	006400	2010	
JEFFERSON	G103	PRECINCT 103 34 DISTRICT	006400	2011	
JEFFERSON	G103	PRECINCT 103 34 DISTRICT	008300	1000	
JEFFERSON	G103	PRECINCT 103 34 DISTRICT	008300	1001	
JEFFERSON	G103	PRECINCT 103 34 DISTRICT	008300	1002	
JEFFERSON	G103	PRECINCT 103 34 DISTRICT	008300	1005	0202
JEFFERSON	G104	PRECINCT 104 34 DISTRICT			
JEFFERSON	G106	PRECINCT 106 34 DISTRICT			
JEFFERSON	G107	PRECINCT 107 34 DISTRICT			
JEFFERSON	H102	PRECINCT 102 35 DISTRICT	006300	1016	
JEFFERSON	H102	PRECINCT 102 35 DISTRICT	006300	1017	
JEFFERSON	H102	PRECINCT 102 35 DISTRICT	006800	3000	
JEFFERSON	H102	PRECINCT 102 35 DISTRICT	006800	3005	
JEFFERSON	H102	PRECINCT 102 35 DISTRICT	006900	1000	
JEFFERSON	H102	PRECINCT 102 35 DISTRICT	006900	1001	
JEFFERSON	H102	PRECINCT 102 35 DISTRICT	006900	1002	
JEFFERSON	H102	PRECINCT 102 35 DISTRICT	006900	1003	
JEFFERSON	H102	PRECINCT 102 35 DISTRICT	006900	1004	
JEFFERSON	H102	PRECINCT 102 35 DISTRICT	006900	1005	0202
JEFFERSON	H102	PRECINCT 102 35 DISTRICT	006900	1009	
JEFFERSON	H102	PRECINCT 102 35 DISTRICT	006900	1010	
JEFFERSON	H102	PRECINCT 102 35 DISTRICT	006900	2000	0102
JEFFERSON	H102	PRECINCT 102 35 DISTRICT	006900	2003	
JEFFERSON	H102	PRECINCT 102 35 DISTRICT	006900	3000	
JEFFERSON	H102	PRECINCT 102 35 DISTRICT	006900	3007	
JEFFERSON	H102	PRECINCT 102 35 DISTRICT	006900	3008	
JEFFERSON	H114	PRECINCT 114 35 DISTRICT			
JEFFERSON	H123	PRECINCT 123 35 DISTRICT			
JEFFERSON	H126	PRECINCT 126 35 DISTRICT			
JEFFERSON	H127	PRECINCT 127 35 DISTRICT			
JEFFERSON	H130	PRECINCT 130 35 DISTRICT			
JEFFERSON	H131	PRECINCT 131 35 DISTRICT			
JEFFERSON	H132	PRECINCT 132 35 DISTRICT			
JEFFERSON	H133	PRECINCT 133 35 DISTRICT			
JEFFERSON	H142	PRECINCT 142 35 DISTRICT			
JEFFERSON	I101	PRECINCT 101 37 DISTRICT			
JEFFERSON	I103	PRECINCT 103 37 DISTRICT	003700	2011	
JEFFERSON	I103	PRECINCT 103 37 DISTRICT	003700	2012	
JEFFERSON	I103	PRECINCT 103 37 DISTRICT	003700	2013	

JEFFERSON	*I103*	*PRECINCT 103 37 DISTRICT*	*003700*	*2015*	
JEFFERSON	*I103*	*PRECINCT 103 37 DISTRICT*	*003700*	*2016*	
JEFFERSON	*I104*	*PRECINCT 104 37 DISTRICT*			
JEFFERSON	*I128*	*PRECINCT 128 37 DISTRICT*			
JEFFERSON	*K103*	*PRECINCT 103 40 DISTRICT*			
JEFFERSON	*K104*	*PRECINCT 104 40 DISTRICT*			
JEFFERSON	*K105*	*PRECINCT 105 40 DISTRICT*			
JEFFERSON	*K108*	*PRECINCT 108 40 DISTRICT*	*002800*	*2001*	
JEFFERSON	*K108*	*PRECINCT 108 40 DISTRICT*	*002800*	*2002*	
JEFFERSON	*K108*	*PRECINCT 108 40 DISTRICT*	*002800*	*2006*	
JEFFERSON	*K108*	*PRECINCT 108 40 DISTRICT*	*002800*	*2007*	
JEFFERSON	*K108*	*PRECINCT 108 40 DISTRICT*	*002800*	*2008*	
JEFFERSON	*K108*	*PRECINCT 108 40 DISTRICT*	*002800*	*2011*	
JEFFERSON	*K108*	*PRECINCT 108 40 DISTRICT*	*002800*	*2012*	
JEFFERSON	*K108*	*PRECINCT 108 40 DISTRICT*	*012802*	*1001*	*0202*
JEFFERSON	*K108*	*PRECINCT 108 40 DISTRICT*	*012802*	*1002*	
JEFFERSON	*K108*	*PRECINCT 108 40 DISTRICT*	*012802*	*1003*	
JEFFERSON	*K108*	*PRECINCT 108 40 DISTRICT*	*012802*	*1004*	
JEFFERSON	*K108*	*PRECINCT 108 40 DISTRICT*	*012802*	*1005*	
JEFFERSON	*K108*	*PRECINCT 108 40 DISTRICT*	*012802*	*1008*	
JEFFERSON	*K110*	*PRECINCT 110 40 DISTRICT*			
JEFFERSON	*K111*	*PRECINCT 111 40 DISTRICT*			
JEFFERSON	*K112*	*PRECINCT 112 40 DISTRICT*			
JEFFERSON	*K114*	*PRECINCT 114 40 DISTRICT*			
JEFFERSON	*K122*	*PRECINCT 122 40 DISTRICT*	*012802*	*1001*	*0102*
JEFFERSON	*K129*	*PRECINCT 129 40 DISTRICT*			
JEFFERSON	*L108*	*PRECINCT 108 41 DISTRICT*			
JEFFERSON	*L109*	*PRECINCT 109 41 DISTRICT*			
JEFFERSON	*L110*	*PRECINCT 110 41 DISTRICT*			
JEFFERSON	*L111*	*PRECINCT 111 41 DISTRICT*			
JEFFERSON	*L112*	*PRECINCT 112 41 DISTRICT*			
JEFFERSON	*L113*	*PRECINCT 113 41 DISTRICT*			
JEFFERSON	*L114*	*PRECINCT 114 41 DISTRICT*			
JEFFERSON	*L115*	*PRECINCT 115 41 DISTRICT*			
JEFFERSON	*L116*	*PRECINCT 116 41 DISTRICT*			
JEFFERSON	*L117*	*PRECINCT 117 41 DISTRICT*			
JEFFERSON	*L119*	*PRECINCT 119 41 DISTRICT*			
JEFFERSON	*L121*	*PRECINCT 121 41 DISTRICT*			
JEFFERSON	*L122*	*PRECINCT 122 41 DISTRICT*			
JEFFERSON	*L124*	*PRECINCT 124 41 DISTRICT*			
JEFFERSON	*L126*	*PRECINCT 126 41 DISTRICT*			
JEFFERSON	*L127*	*PRECINCT 127 41 DISTRICT*			
JEFFERSON	*L130*	*PRECINCT 130 41 DISTRICT*			
JEFFERSON	*L131*	*PRECINCT 131 41 DISTRICT*			
JEFFERSON	*L133*	*PRECINCT 133 41 DISTRICT*			
JEFFERSON	*M115*	*PRECINCT 115 42 DISTRICT*			
JEFFERSON	*M116*	*PRECINCT 116 42 DISTRICT*			
JEFFERSON	*M117*	*PRECINCT 117 42 DISTRICT*			
JEFFERSON	*M120*	*PRECINCT 120 42 DISTRICT*			

JEFFERSON	*M121*	*PRECINCT 121 42 DISTRICT*		
JEFFERSON	*M123*	*PRECINCT 123 42 DISTRICT*		
JEFFERSON	*M124*	*PRECINCT 124 42 DISTRICT*		
JEFFERSON	*M125*	*PRECINCT 125 42 DISTRICT*		
JEFFERSON	*M131*	*PRECINCT 131 42 DISTRICT*		
JEFFERSON	*M136*	*PRECINCT 136 42 DISTRICT*		
JEFFERSON	*Q107*	*PRECINCT 107 46 DISTRICT*		
JEFFERSON	*Q122*	*PRECINCT 122 46 DISTRICT*		
JEFFERSON	*Q123*	*PRECINCT 123 46 DISTRICT*		
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*4000*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*4001*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*4002*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*4003*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*4004*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5001*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5002*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5003*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5004*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5005*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5006*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5007*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5008*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5009*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5010*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5012*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011405*	*5013*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*2000*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*2001*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*2002*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*2008*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*2009*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*2010*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*2011*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*4000*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*4001*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*4002*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*4003*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*4006*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*4008*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*4010*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*4011*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*4012*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*4013*
JEFFERSON	*Q124*	*PRECINCT 124 46 DISTRICT*	*011800*	*4016*
JEFFERSON	*Q127*	*PRECINCT 127 46 DISTRICT*		

SECTION 21. KRS 5.137 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Thirty-seventh Senatorial District shall consist of the following territory:

				---CENSUS---		
COUNTY	*PREC*	*SEC*	*NAME*	*TRACT*	*BLCK*	*SECT*

JEFFERSON	A105	PRECINCT 105 28 DISTRICT			
JEFFERSON	A107	PRECINCT 107 28 DISTRICT			
JEFFERSON	A108	PRECINCT 108 28 DISTRICT			
JEFFERSON	A111	PRECINCT 111 28 DISTRICT			
JEFFERSON	A113	PRECINCT 113 28 DISTRICT			
JEFFERSON	A114	PRECINCT 114 28 DISTRICT			
JEFFERSON	A115	PRECINCT 115 28 DISTRICT			
JEFFERSON	A118	PRECINCT 118 28 DISTRICT			
JEFFERSON	A123	PRECINCT 123 28 DISTRICT			
JEFFERSON	A125	PRECINCT 125 28 DISTRICT			
JEFFERSON	A126	PRECINCT 126 28 DISTRICT			
JEFFERSON	A127	PRECINCT 127 28 DISTRICT			
JEFFERSON	A128	PRECINCT 128 28 DISTRICT			
JEFFERSON	A131	PRECINCT 131 28 DISTRICT			
JEFFERSON	A133	PRECINCT 133 28 DISTRICT			
JEFFERSON	B138	PRECINCT 138 29 DISTRICT			
JEFFERSON	B139	PRECINCT 139 29 DISTRICT			
JEFFERSON	H124	PRECINCT 124 35 DISTRICT			
JEFFERSON	H125	PRECINCT 125 35 DISTRICT			
JEFFERSON	H134	PRECINCT 134 35 DISTRICT			
JEFFERSON	H140	PRECINCT 140 35 DISTRICT			
JEFFERSON	I103	PRECINCT 103 37 DISTRICT	003700	1009	
JEFFERSON	I103	PRECINCT 103 37 DISTRICT	003700	1010	
JEFFERSON	I103	PRECINCT 103 37 DISTRICT	003700	1011	
JEFFERSON	I103	PRECINCT 103 37 DISTRICT	003700	1012	
JEFFERSON	I103	PRECINCT 103 37 DISTRICT	003700	1013	
JEFFERSON	I103	PRECINCT 103 37 DISTRICT	003700	1014	
JEFFERSON	I103	PRECINCT 103 37 DISTRICT	003700	1017	
JEFFERSON	I103	PRECINCT 103 37 DISTRICT	003700	1018	
JEFFERSON	I103	PRECINCT 103 37 DISTRICT	003700	2010	
JEFFERSON	I103	PRECINCT 103 37 DISTRICT	003700	2014	
JEFFERSON	I103	PRECINCT 103 37 DISTRICT	003800	1000	0205
JEFFERSON	I105	PRECINCT 105 37 DISTRICT			
JEFFERSON	I106	PRECINCT 106 37 DISTRICT			
JEFFERSON	I107	PRECINCT 107 37 DISTRICT			
JEFFERSON	I109	PRECINCT 109 37 DISTRICT			
JEFFERSON	I110	PRECINCT 110 37 DISTRICT			
JEFFERSON	I111	PRECINCT 111 37 DISTRICT			
JEFFERSON	I112	PRECINCT 112 37 DISTRICT			
JEFFERSON	I114	PRECINCT 114 37 DISTRICT			
JEFFERSON	I115	PRECINCT 115 37 DISTRICT			
JEFFERSON	I117	PRECINCT 117 37 DISTRICT			
JEFFERSON	I120	PRECINCT 120 37 DISTRICT			
JEFFERSON	I122	PRECINCT 122 37 DISTRICT			
JEFFERSON	I127	PRECINCT 127 37 DISTRICT			
JEFFERSON	J105	PRECINCT 105 38 DISTRICT			
JEFFERSON	J108	PRECINCT 108 38 DISTRICT			
JEFFERSON	J110	PRECINCT 110 38 DISTRICT			
JEFFERSON	J111	PRECINCT 111 38 DISTRICT			

JEFFERSON	J113	PRECINCT 113 38 DISTRICT		
JEFFERSON	J117	PRECINCT 117 38 DISTRICT		
JEFFERSON	J119	PRECINCT 119 38 DISTRICT		
JEFFERSON	J120	PRECINCT 120 38 DISTRICT		
JEFFERSON	J122	PRECINCT 122 38 DISTRICT		
JEFFERSON	J127	PRECINCT 127 38 DISTRICT		
JEFFERSON	J128	PRECINCT 128 38 DISTRICT		
JEFFERSON	J129	PRECINCT 129 38 DISTRICT		
JEFFERSON	J130	PRECINCT 130 38 DISTRICT		
JEFFERSON	J131	PRECINCT 131 38 DISTRICT		
JEFFERSON	J133	PRECINCT 133 38 DISTRICT		
JEFFERSON	J135	PRECINCT 135 38 DISTRICT		
JEFFERSON	K116	PRECINCT 116 40 DISTRICT		
JEFFERSON	K117	PRECINCT 117 40 DISTRICT		
JEFFERSON	K119	PRECINCT 119 40 DISTRICT		
JEFFERSON	K126	PRECINCT 126 40 DISTRICT		
JEFFERSON	K127	PRECINCT 127 40 DISTRICT		
JEFFERSON	K128	PRECINCT 128 40 DISTRICT		
JEFFERSON	K132	PRECINCT 132 40 DISTRICT		
JEFFERSON	O112	PRECINCT 112 44 DISTRICT		
JEFFERSON	O113	PRECINCT 113 44 DISTRICT	012503	1000
JEFFERSON	O113	PRECINCT 113 44 DISTRICT	012503	1001
JEFFERSON	O113	PRECINCT 113 44 DISTRICT	012503	1002
JEFFERSON	O113	PRECINCT 113 44 DISTRICT	012503	1006
JEFFERSON	O113	PRECINCT 113 44 DISTRICT	012503	1008
JEFFERSON	O113	PRECINCT 113 44 DISTRICT	012503	1009
JEFFERSON	O113	PRECINCT 113 44 DISTRICT	012503	1010
JEFFERSON	O113	PRECINCT 113 44 DISTRICT	012503	1011
JEFFERSON	O113	PRECINCT 113 44 DISTRICT	012503	1012
JEFFERSON	O113	PRECINCT 113 44 DISTRICT	012503	1013
JEFFERSON	O113	PRECINCT 113 44 DISTRICT	012503	1014
JEFFERSON	O114	PRECINCT 114 44 DISTRICT		
JEFFERSON	O115	PRECINCT 115 44 DISTRICT		
JEFFERSON	O127	PRECINCT 127 44 DISTRICT		
JEFFERSON	O128	PRECINCT 128 44 DISTRICT		
JEFFERSON	O129	PRECINCT 129 44 DISTRICT		
JEFFERSON	O130	PRECINCT 130 44 DISTRICT	012503	2007
JEFFERSON	O130	PRECINCT 130 44 DISTRICT	012503	2008
JEFFERSON	O130	PRECINCT 130 44 DISTRICT	012503	2009
JEFFERSON	O130	PRECINCT 130 44 DISTRICT	012503	2010
JEFFERSON	O130	PRECINCT 130 44 DISTRICT	012503	2012
JEFFERSON	O130	PRECINCT 130 44 DISTRICT	012503	2013
JEFFERSON	O130	PRECINCT 130 44 DISTRICT	012503	2014
JEFFERSON	O130	PRECINCT 130 44 DISTRICT	012503	2020
JEFFERSON	O130	PRECINCT 130 44 DISTRICT	012503	2021
JEFFERSON	O130	PRECINCT 130 44 DISTRICT	012503	2022
JEFFERSON	O130	PRECINCT 130 44 DISTRICT	012503	2026
JEFFERSON	O130	PRECINCT 130 44 DISTRICT	012503	2027
JEFFERSON	O130	PRECINCT 130 44 DISTRICT	012503	3002

JEFFERSON	*0130*	*PRECINCT 130 44 DISTRICT*	*012503*	*3003*
JEFFERSON	*0130*	*PRECINCT 130 44 DISTRICT*	*012503*	*3004*
JEFFERSON	*0130*	*PRECINCT 130 44 DISTRICT*	*012503*	*3005*
JEFFERSON	*0130*	*PRECINCT 130 44 DISTRICT*	*012503*	*3006*
JEFFERSON	*0130*	*PRECINCT 130 44 DISTRICT*	*012503*	*3007*
JEFFERSON	*0130*	*PRECINCT 130 44 DISTRICT*	*012503*	*3008*
JEFFERSON	*0130*	*PRECINCT 130 44 DISTRICT*	*012503*	*3009*
JEFFERSON	*0130*	*PRECINCT 130 44 DISTRICT*	*012503*	*3010*
JEFFERSON	*0130*	*PRECINCT 130 44 DISTRICT*	*012503*	*3011*
JEFFERSON	*0130*	*PRECINCT 130 44 DISTRICT*	*012503*	*3012*
JEFFERSON	*0130*	*PRECINCT 130 44 DISTRICT*	*012503*	*3013*
JEFFERSON	*0130*	*PRECINCT 130 44 DISTRICT*	*012503*	*3014*
JEFFERSON	*0130*	*PRECINCT 130 44 DISTRICT*	*012503*	*3015*
JEFFERSON	*0131*	*PRECINCT 131 44 DISTRICT*		
JEFFERSON	*0132*	*PRECINCT 132 44 DISTRICT*		
JEFFERSON	*0101*	*PRECINCT 101 46 DISTRICT*		
JEFFERSON	*0103*	*PRECINCT 103 46 DISTRICT*		
JEFFERSON	*0104*	*PRECINCT 104 46 DISTRICT*		
JEFFERSON	*0105*	*PRECINCT 105 46 DISTRICT*		
JEFFERSON	*0109*	*PRECINCT 109 46 DISTRICT*		
JEFFERSON	*0124*	*PRECINCT 124 46 DISTRICT*	*011800*	*2003*
JEFFERSON	*0124*	*PRECINCT 124 46 DISTRICT*	*011800*	*2004*";

And, on page 45, line 3, by changing "Section 9" to "Section 22".

Floor Amendment No. 11 to Committee Substitute to **HB 768**, by Representative Heleringer:

On page 59, between lines 18 and 19, by inserting the following:

"*(f) After payment of the costs and expenses described in paragraph (c) of this subsection, an amount equal to one-half of one percent (0.5%) of the annual gaming income shall be deposited by the Gaming Commission into the Kentucky Race Track Retirement Plan established under KRS 230.375.*"; and

On page 59, line 19, delete "*(f)*" and insert in lieu thereof "*(g)*"; and

On page 59, line 21, delete "*(e)*" and insert in lieu thereof "*(f)*"; and

On page 116, between lines 12 and 13, by inserting the following:

"Section 63. KRS 230.375 is amended to read as follows:

(1) The board of directors of the Kentucky Racing Health and Welfare Fund, Inc., *shall*[~~may~~] create and fund the Kentucky Race Track Retirement Plan. The board shall use no more than twenty-five percent (25%) of the annual sum paid by the commission under KRS 230.361 to 230.373 to fund the plan. *The board shall also use the amount of the annual gaming income specified under paragraph (f) of subsection (1) of Section 35 of this Act to fund the plan. No more than ten percent (10%) of the moneys allocated under this subsection shall be used to administer the plan.*

(2) The plan shall be provided for the benefit of thoroughbred *and standardbred* trainers, assistant trainers, exercise riders, grooms, stable attendants, [~~and~~]other stable employees*, and racing officials* who can demonstrate that they are not otherwise eligible to participate in any other private or public, nonself-funded retirement or pension plan.

(3) The Kentucky Race Track Retirement Plan shall be administered by the board of directors of the Kentucky Racing Health and Welfare Fund, Inc., for the charitable and benevolent purposes set forth in KRS 230.374, and no part of the sums administered by the fund for the plan or any net earnings of the plan shall inure to the benefit of any private individual, director, officer, or member of the fund, or any of the persons who paid sums to the commission under the provisions of KRS 230.361 to 230.373.

(4) The board of directors of the Kentucky Racing Health and Welfare Fund, Inc., shall be the trustee of the plan's funds and shall have full power to invest and reinvest funds. Investments shall be diversified to balance the risks associated with various investment options to maintain the long-term solvency of the plan. The board shall have full power to hold, purchase, sell, assign, transfer, or dispose of any of the investments in which any of the plan's funds have been invested, as well as of the proceeds of investments belonging to the plan. The board members or any investment manager shall discharge their duties with respect to the assets of the plan solely in the interest of the plan's members and:

(a) For the exclusive purposes of providing benefits to plan members and their beneficiaries and defraying reasonable expenses of administering the plan;

(b) With the care, skill, prudence, and diligence under the circumstances that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims; and

(c) In accordance with any other laws or instruments governing the administration of the plan's funds."; and

On page 116, line 13, delete "Section 63" and insert in lieu thereof "Section 64"; and

On page 116, line 27, delete "Section 64" and insert in lieu thereof "Section 65"; and

On page 117, line 6, delete "Section 65" and insert in lieu thereof "Section 66"; and

On page 117, line 10, delete "Section 66" and insert in lieu thereof "Section 67".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 67, Representative Marzian

HR 135, Representative Palumbo.

Announcements

The following meetings were announced:

Appropriations and Revenue: no meeting upon adjournment today, but will meet Wednesday, March 20, 2002, 10:00 a.m. Room 129

Education: Wednesday, March 20, 2002, 8:00 a.m.

Judiciary: Wednesday, March 20, 2002, noon

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m. on Wednesday, March 20, 2002.

The motion that the House adjourn until 2:00 p.m., Wednesday, March 20, 2002 was adopted by voice vote.

WEDNESDAY, MARCH 20, 2002

FIFTIETH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Representative Kerr.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Branham.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Tuesday, March 19, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 184, SB 190, SB 201, SB 280, SCR 157, HB 98,** and **HB 383**.

Message received in regard to **HB 67**: The Senate has passed **HB 67**, by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 393**: The Senate has passed **HB 393**, by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 559**: The Senate has passed **HB 559**, by way of Senate Committee Substitute with Senate Committee Amendment No. 1 Title and respectfully requests concurrence of this Honorable Body. (Time: 2:10 p.m.)

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **SB 163**

Education: **SB 165**

Local Government: **SB 257**

State Government: **SB 292**

House Floor: **HR 246, 247**

Report of Committees

The Committee on Rules reported that **SB 56, SB 59, SB 121, SB 133, SB 138, SB 153,** and **SB 178** have been posted for passage in the Orders of the Day for March 21, 2002.

The Committee on Education reported **SB 99,** with Committee Substitute attached thereto, **SB 166, SB 254, SB 243,** with Committee Substitute attached thereto, and **SCR 142,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 99, AN ACT relating to school closings for elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour instructional days. A board of education may extend its term beyond the minimum term.

(2) The local board of education, upon recommendation of the local school district superintendent, shall adopt a school calendar for the upcoming school year that establishes the opening and closing dates of the school term, beginning and

ending dates of each school month, instructional days, and days on which schools shall be dismissed. The local board may schedule days for breaks in the school calendar that shall not be counted as a part of the minimum school term.

(3) Any local board of education operating its schools on a year-round school program basis shall conform with administrative regulations promulgated and adopted by the Kentucky Board of Education upon the recommendation of the commissioner of education, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum instructional term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(4) (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of pupils pursuant to the requirements of KRS 156.095. At the discretion of the superintendent, one (1) day of professional development may be used for district-wide activities and for training that is mandated by federal or state law. The use of three (3) days shall be planned by each school council, except that the district is encouraged to provide technical assistance and leadership to school councils to maximize existing resources and to encourage shared planning.

(b) A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred eighty-five (185) days that a teacher shall be employed.

1. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.

2. No teacher or administrator shall be permitted to count participation in a professional development activity under the flexible schedule option unless the activity is related to the teacher's classroom assignment and content area, or the administrator's job requirements, or is required by the school improvement or consolidated plan, or is tied to the teacher's or the administrator's individual growth plan. The supervisor shall give prior approval and shall monitor compliance with the requirements of this paragraph. In the case of teachers, a professional development committee or the school council by council policy may be responsible for reviewing requests for approval.

(c) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.

(d) Each local board may use two (2) days for planning activities without the presence of pupils.

(e) Each local board may use the number of days deemed necessary for:

1. National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;

2. Local disaster which would endanger the health or safety of children; and

3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the commissioner of education.

(5) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt administrative regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (4)(e)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.

(6) (a) In setting the school calendar, school may be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings may be scheduled to begin with the first Thursday after Easter, or largest paid membership, the commissioner of education may designate alternate dates. If schools are scheduled to operate during days designated for the statewide professional meeting, the school district shall permit teachers who are delegates to attend as compensated professional leave time and shall employ substitute teachers in their absence. The commissioner of education shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. School shall be closed on the day of a regular election, ***and may be closed on the day of a primary election,*** and ***those days***[~~that day~~] may be used for professional development activities, professional meetings, or parent-teacher conferences.

(b) All schools shall be closed on the third Monday of January in observance of the birthday of Martin Luther King, Jr. Districts may:

1. Designate the day as one (1) of the four (4) holidays permitted under subsection (4)(c) of this section; or
2. Not include the day in the minimum school term specified in subsection (1) of this section.

(7) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(8) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the school day.

(9) Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section.

(10) Notwithstanding the provisions of KRS 158.060(3) and the provisions of subsection (1) of this section, a school district shall arrange bus schedules so that all buses arrive in sufficient time to provide breakfast prior to the instructional day. In the event of an unforeseen bus delay, the administrator of a school that participates in the Federal School Breakfast Program may authorize up to fifteen (15) minutes of the six (6) hour instructional day if necessary to provide the opportunity for children to eat breakfast not to exceed eight (8) times during the school year within a school building.

The Committee Substitute to **SB 99** is as follows:

SB 99, AN ACT relating to school closings for elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour instructional days. A board of education may extend its term beyond the minimum term.

(2) The local board of education, upon recommendation of the local school district superintendent, shall adopt a school calendar for the upcoming school year that establishes the opening and closing dates of the school term, beginning and ending dates of each school month, instructional days, and days on which schools shall be dismissed. The local board may schedule days for breaks in the school calendar that shall not be counted as a part of the minimum school term.

(3) Any local board of education operating its schools on a year-round school program basis shall conform with administrative regulations promulgated and adopted by the Kentucky Board of Education upon the recommendation of the commissioner of education, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum instructional term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(4) (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of pupils pursuant to the requirements of KRS 156.095. At the discretion of the superintendent, one (1) day of professional development may be used for district-wide activities and for training that is mandated by federal or state law. The use of three (3) days shall be planned by each school council, except that the district is encouraged to provide technical assistance and leadership to school councils to maximize existing resources and to encourage shared planning.

(b) A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred eighty-five (185) days that a teacher shall be employed.

1. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.
2. No teacher or administrator shall be permitted to count participation in a professional development activity under the flexible schedule option unless the activity is related to the teacher's classroom assignment and

content area, or the administrator's job requirements, or is required by the school improvement or consolidated plan, or is tied to the teacher's or the administrator's individual growth plan. The supervisor shall give prior approval and shall monitor compliance with the requirements of this paragraph. In the case of teachers, a professional development committee or the school council by council policy may be responsible for reviewing requests for approval.

(c) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.

(d) Each local board may use two (2) days for planning activities without the presence of pupils.

(e) Each local board may use the number of days deemed necessary for:

1. National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;

2. Local disaster which would endanger the health or safety of children; and

3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the commissioner of education.

(5) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt administrative regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (4)(e)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.

(6) (a) In setting the school calendar, school may be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings may be scheduled to begin with the first Thursday after Easter, or largest paid membership, the commissioner of education may designate alternate dates. If schools are scheduled to operate during days designated for the statewide professional meeting, the school district shall permit teachers who are delegates to attend as compensated professional leave time and shall employ substitute teachers in their absence. The commissioner of education shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. ***Except for Presidential election years,*** school ***may***[~~shall~~] be closed on the day of a regular election, ***and may be closed on the day of a primary election,*** and ***those days***[~~that day~~] may be used for professional development activities, professional meetings, or parent-teacher conferences.

(b) All schools shall be closed on the third Monday of January in observance of the birthday of Martin Luther King, Jr. Districts may:

1. Designate the day as one (1) of the four (4) holidays permitted under subsection (4)(c) of this section; or

2. Not include the day in the minimum school term specified in subsection (1) of this section.

(7) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(8) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the school day.

(9) Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section.

(10) Notwithstanding the provisions of KRS 158.060(3) and the provisions of subsection (1) of this section, a school district shall arrange bus schedules so that all buses arrive in sufficient time to provide breakfast prior to the instructional day. In the event of an unforeseen bus delay, the administrator of a school that participates in the Federal School Breakfast Program may authorize up to fifteen (15) minutes of the six (6) hour instructional day if necessary to provide the opportunity for children to eat breakfast not to exceed eight (8) times during the school year within a school building.

SB 166, AN ACT relating to the Office of Education Accountability.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 7.410 is amended to read as follows:

(1) It is the intent of the General Assembly to provide an efficient system of common schools which shall be operated without waste, duplication, mismanagement, and political influence. The system of schools shall have the goal of providing all students with at least the seven (7) capacities referred to in KRS 158.645.

(2) (a) An Office of Education Accountability is hereby created and shall be under the direction of the Legislative Research Commission and shall be advised and monitored by the Education Assessment and Accountability Review Subcommittee.

(b) The Office of Education Accountability shall be administered by a deputy director appointed by the Legislative Research Commission upon recommendation of the director of the Legislative Research Commission. The deputy director shall have the qualifications set by the Commission. The salary of the deputy director shall be set by the Commission. The Commission shall have exclusive jurisdiction over the employment of personnel necessary to carry out the provisions of this section. The deputy director shall be subject to the direction of and report to the director of the Legislative Research Commission.

(c) The Office of Education Accountability shall have the following duties and responsibilities:

1. Monitor the education system and implementation of the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, including actions taken and reports issued by the Kentucky Board of Education, the Education Professional Standards Board, the chief state school officer, the Department of Education, local school districts, and vocational and higher education as affected by the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476. ***The monitoring of the education system shall also include periodic reviews of local district and school-based decision making policies relating to the recruitment, interviewing, selection, evaluation, termination or promotion of personnel. The office shall report any district or school when evidence demonstrates a pattern of exclusionary personnel practices relating to race or sex to the Kentucky Department of Education, which shall then independently investigate facts raised in or associated with the report. The results of the investigation conducted by the department shall be forwarded to the Kentucky Board of Education which shall conduct an investigative hearing on the matter.***

2. Establish a Division of School Finance which shall conduct an ongoing review of the finance system. The review shall include an analysis of the level of equity achieved by the funding system and whether adequate funds are available to all school districts; a review of the weights of various education program components, which are to be developed by the Department of Education no later than October 1, 1991. The division shall develop recommendations for the base per pupil funding for the support education excellence in Kentucky program and a statewide salary schedule. It shall conduct studies of other finance issues identified as needing further study, including a review of the transportation formula required in KRS 157.360. The division shall submit an annual report of its activities, findings, and recommendations to the Education Assessment and Accountability Review Subcommittee. Upon approval of the subcommittee, the annual report shall be forwarded to the Governor, the Legislative Research Commission, and the Kentucky Board of Education no later than October 1 each year.

3. Verify the accuracy of reports of school, district, and state performance by conducting, requesting, or upon approval of the Legislative Research Commission, contracting for periodic program and fiscal audits as necessary. Upon and under the direction of the Education Assessment and Accountability Review Subcommittee, the Office of Education Accountability shall monitor and verify the accuracy of reports of the Department of Education and the Kentucky Board of Education, including, but not limited to, the annual fiscal conditions of grants, categorical programs, and other educational initiatives set forth by the General Assembly.

4. Investigate allegations of wrongdoing of any person or agency, including, but not limited to, waste, duplication, mismanagement, political influence, and illegal activity at the state, regional, or school district level which have not been resolved or satisfactorily explained by the local superintendent, local board of education, the chief state school officer, or the Kentucky Board of Education, and make recommendations for legislative action to the Education Assessment and Accountability Review Subcommittee. Upon approval of the subcommittee, recommendations for legislative action shall be forwarded to the Legislative Research Commission. The Office of Education Accountability shall submit to the subcommittee, for each of its regular meetings, a report that summarizes investigative activity initiated pursuant to this subparagraph. The subcommittee may consider each report as it determines and in its discretion. Each report, and the consideration thereof by the subcommittee, shall be exempt from the open records and open meetings requirements contained in KRS Chapter 61.

5. Under the direction of the Education Assessment and Accountability Review Subcommittee, conduct studies, analyze, verify, and validate the state assessment program through other external indicators of

academic progress including, but not limited to, American College Test scores, Scholastic Assessment Test scores, National Assessment of Educational Progress scores, Preliminary Scholastic Assessment Test scores, Advanced Placement Program participation, standardized test scores, college remediation rates, retention and attendance rates, dropout rates, and additional available data on the efficiency of the system of schools and whether progress is being made toward attaining the goal of providing students with the seven (7) capacities as required by KRS 158.645.

6. Make periodic reports to the Education Assessment and Accountability Review Subcommittee as directed by the subcommittee. Upon approval of the subcommittee, the reports shall be forwarded to the Legislative Research Commission.

7. Make periodic reports to the Legislative Research Commission as may be directed by the Commission.

8. Prepare an annual report on the implementation of the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, including recommendations for improvement which shall be submitted to the Education Assessment and Accountability Review Subcommittee. Upon approval of the subcommittee, the annual report shall be submitted to the Governor, the Legislative Research Commission, and the Kentucky Board of Education.

(d) The Office of Education Accountability shall have access to all public records and information on oath as provided in KRS 7.110. The office shall also have access to otherwise confidential records, meetings, and hearings regarding local school district personnel matters. However, the office shall not disclose any information contained in or derived from the records, meetings, and hearings that would enable the discovery of the specific identification of any individual who is the focus or subject of the personnel matter.

(e) In compliance with KRS 48.800, 48.950, and 48.955, the Finance and Administration Cabinet and the Governor's Office for Policy and Management shall provide to the Office of Education Accountability access to all information and records, other than preliminary work papers, relating to allotment of funds, whether by usual allotment or by other means, to the Department of Education, local school districts, and to other recipients of funds for educational purposes.

(f) Any state agency receiving a complaint or information which, if accurate, may identify a violation of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, shall notify the office of the complaint or information.

(g) The Office of Education Accountability may contract for services as approved by the Legislative Research Commission pursuant to KRS 7.090(7).

(3) The provisions of KRS 61.878 or any other statute, including Acts of the 1992 Regular Session of the General Assembly to the contrary notwithstanding, the testimony of investigators, work products, and records of the Office of Education Accountability relating to duties and responsibilities under subsection (2) of this section shall be privileged and confidential during the course of an ongoing investigation or until authorized, released, or otherwise made public by the Office of Education Accountability and shall not be subject to discovery, disclosure, or production upon the order or subpoena of a court or other agency with subpoena power.

Section 2. During the 2002-2004 biennium the Office of Education Accountability shall review the personnel policies and procedures in those districts that have at least an eight percent (8%) minority school population and less than an eight percent (8%) minority staff overall or less than an eight percent (8%) minority teaching staff or less than an eight percent (8%) minority administrative staff and any other district in which there have been complaints of unfair, unequitable personnel practices. The review shall include analysis of the school-based decision making policies on consultation in the selection of personnel by the principal, the training in personnel selection provided to school council members before selecting a principal, the implementation of evaluation systems within the district, the local district annual minority report prepared for the Kentucky Department of Education, and evidence of patterns of behavior that may be exclusionary of specific minorities or of one sex or the other. The office shall provide a summary report of its findings to the Education Assessment and Accountability Review Subcommittee by November 15, 2003.

SB 254, AN ACT relating to qualifications of substitute teachers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

Any applicant for substitute teaching who possesses a bachelor's degree in any subject area from a regionally or nationally accredited institution of postsecondary education shall be granted a certificate for substitute teaching from the Education Professional Standards Board subject to the provisions of KRS 161.120(1). This certificate shall enable the applicant to apply for substitute teaching in any subject area for any grade level in any local school district.

SB 243, AN ACT relating to the availability of textbooks and instructional materials in accessible formats for students with disabilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The following definitions shall apply to this section:

(a) "Accessible format" means any medium or specialized format for the presentation of instructional materials that is needed by a student with a disability for a reading accommodation other than standard print, including but not limited to Braille, large print, audio recordings, digital text, and digital talking books;

(b) "Braille," "individualized education program," and "blind students" have the same meaning as defined under KRS 158.281; and

(c) "Section 504 Plan" means a written statement developed for a student with a disability that includes the provision of regular or special education and related aids and services designed to meet individual educational needs in accordance with the federal regulations issued under 34 C.F.R. sec. 104.33.

(2) The purpose of this section shall be to assure, to the maximum extent possible, that all students with disabilities in the public schools kindergarten through grade twelve (12) who require reading accommodations in accordance with an individualized education program or Section 504 Plan, including but not limited to students who are blind, visually impaired, or who have a specific learning disability as defined in KRS 157.200 or other disability affecting reading, shall have access to textbooks and instructional materials as defined by administrative regulations of the Kentucky Board of Education in accessible formats that are most appropriate to their disability and educational needs.

(3) Notwithstanding any other statute to the contrary, the Department of Education shall give preferential procurement status to textbook and instructional materials from publishers who make their materials available in accessible formats for use by students with disabilities, or who can verify that an accessible format textbook or instructional material is currently available from or is in the process of being created by the American Printing House for the Blind, Recording for the Blind and Dyslexic, or another authorized entity, as defined under 17 U.S.C. sec. 121 and who commonly provide accessible format materials for use by students in Kentucky schools. The Department of Education may assign additional procurement preferences designed to ensure that students with disabilities have access to the most appropriate accessible formats to meet their needs.

(4) Effective July 1, 2003, the Department of Education shall require any publisher of a textbook or program adopted for use in the public schools in kindergarten through grade twelve (12) to furnish computer files or electronic versions of the printed textbooks and instructional materials in digital files in extensible markup language format that validates to the National Information Standards Organization Z39.86-200x standard for textual content, or more current standards as they are developed and required by the department, in order to facilitate the creation and provision of accessible formats. These files must be provided at the same time and in composition and form comparable with the printed version and include corrections and revisions as may be necessary to assure clarity in presentation and use. The Department of Education may define further requirements regarding additional characteristics of digital files submitted in compliance with this section as needed to provide the most appropriate accessible formats to meet the needs of students with disabilities.

(5) The Department of Education shall require publishers to make digital files, together with two (2) copies of the print version, available at no charge upon request to the American Printing House for the Blind for production of accessible Braille and other materials and to Recording for the Blind and Dyslexic for production of accessible audio cassettes, digital text, and digital talking books, which produce accessible format materials based on selection and scheduling needs.

(6) Nothing in this section shall in any way lessen the obligation of the public schools to provide for the instruction of blind students in the use of Braille in accordance with KRS 158.282 nor lessen the provision of Braille textbooks for blind students under KRS 156.476.

The Committee Substitute to **SB 243** is as follows:

SB 243, AN ACT relating to the availability of textbooks and instructional materials in accessible formats for students with disabilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The following definitions shall apply to this section:

(a) "Accessible format" means any medium or specialized format for the presentation of instructional materials that is needed by a student with an individualized education program or Section 504 Plan for a reading accommodation other than standard print, including but not limited to Braille, large print, audio recordings, digital text, and digital talking books;

(b) "Braille," "individualized education program," and "blind students" have the same meaning as defined under

KRS 158.281; and

(c) "Section 504 Plan" means a written statement developed for a student with a disability that includes the provision of regular or special education and related aids and services designed to meet individual educational needs in accordance with the federal regulations issued under 34 C.F.R. sec. 104.33.

(2) The purpose of this section shall be to assure, to the extent feasible, that all students with disabilities in the public schools kindergarten through grade twelve (12) who require reading accommodations in accordance with an individualized education program or Section 504 Plan, including but not limited to students who are blind, visually impaired, or who have a specific learning disability as defined in KRS 157.200 or other disability affecting reading, shall have access to textbooks and instructional materials as defined by administrative regulations of the Kentucky Board of Education in accessible formats that are appropriate to their disability and educational needs.

(3) Notwithstanding any other statute to the contrary, the Department of Education shall give preferential procurement status to textbook and instructional materials from publishers who make their materials available in accessible formats for use by students with disabilities, or who can verify that an accessible format textbook or instructional material is currently available from or is in the process of being created by the American Printing House for the Blind, Recording for the Blind and Dyslexic, or another authorized entity, as defined under 17 U.S.C. sec. 121 and who commonly provide accessible format materials for use by students in Kentucky schools. The Department of Education may assign additional procurement preferences designed to ensure that students with disabilities have access to appropriate accessible formats to meet their needs.

(4) Effective July 1, 2003, the Department of Education shall require to the extent feasible any publisher of a textbook or program adopted for use in the public schools in kindergarten through grade twelve (12) to furnish computer files or electronic versions of the printed textbooks and instructional materials in digital files in extensible markup language format that validates to the National Information Standards Organization Z39.86-200x standard for textual content, or more current standards as they are developed and required by the department, in order to facilitate the creation and provision of accessible formats. These files must be provided at the same time and in composition and form comparable with the printed version and include corrections and revisions as may be necessary to assure clarity in presentation and use. The Department of Education may define further requirements regarding additional characteristics of digital files submitted in compliance with this section as needed to provide appropriate accessible formats to meet the needs of students with disabilities.

(5) The Department of Education shall require publishers to make digital files, together with two (2) copies of the print version, available at no charge upon request to the American Printing House for the Blind for production of accessible Braille and other materials and to Recording for the Blind and Dyslexic for production of accessible audio media, digital text, and digital talking books, which produce accessible format materials based on selection and scheduling needs.

(6) Nothing in this section shall in any way lessen the obligation of the public schools to provide for the instruction of blind students in the use of Braille in accordance with KRS 158.282 nor lessen the provision of Braille textbooks for blind students under KRS 156.476.

SCR 142, A CONCURRENT RESOLUTION urging the Kentucky Department of Education, Kentucky educators, and students to participate in international exchange and study programs.

WHEREAS, the economic and cultural structure of our world is becoming increasingly global in scope and perspective; and

WHEREAS, knowledge of other cultures, economies, and systems of government is becoming an increasingly necessary skill for future leaders and workers; and

WHEREAS, even within Kentucky, the diversity of languages, cultures, and ethnic backgrounds is expanding, requiring both Kentucky educators and students to develop global communication skills and understanding; and

WHEREAS, international education exchange and study programs offer both educators and students the opportunity to learn about foreign nations, cultures, and customs; and

WHEREAS, these programs offer educators and students the opportunity to develop lifelong friendships and professional relationships as well as developing new methods of teaching and learning; and

WHEREAS, these programs offer educators and students the ability to develop increased awareness of diverse ideas, values, world views, and ways of life; and

WHEREAS, participation in international educational exchange and study programs offers educators and students a view of countries with vastly different systems of government, social and cultural beliefs, and economic standards, increasing the appreciation these educators and students have for the American system of government, economy, and basic personal freedoms when they return to the United States;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The Kentucky Board of Education is urged to encourage its students, teachers, administrators, and educational policy makers to participate in international study and educational exchange programs and other activities that advance cultural awareness and promote mutual understanding and respect for citizens of other countries.

Section 2. The Commissioner of Education is urged to establish an international education advisory committee to explore international opportunities for learning, educational exchange programs, and the availability of curriculum materials that will increase the awareness of Kentucky educators and students of other cultures, languages, economies, and systems of government.

The Committee Substitute to **SCR 142** is as follows:

SCR 142, A CONCURRENT RESOLUTION urging the Kentucky Department of Education, Kentucky educators, and students to participate in international exchange and study programs.

WHEREAS, the economic and cultural structure of our world is becoming increasingly global in scope and perspective; and

WHEREAS, knowledge of other cultures, economies, and systems of government is becoming an increasingly necessary skill for future leaders and workers; and

WHEREAS, even within Kentucky, the diversity of languages, cultures, and ethnic backgrounds is expanding, requiring both Kentucky educators and students to develop global communication skills and understanding; and

WHEREAS, international education exchange and study programs offer both educators and students the opportunity to learn about foreign nations, cultures, and customs; and

WHEREAS, these programs offer educators and students the opportunity to develop lifelong friendships and professional relationships as well as developing new methods of teaching and learning; and

WHEREAS, these programs offer educators and students the ability to develop increased awareness of diverse ideas, values, world views, and ways of life; and

WHEREAS, participation in international educational exchange and study programs offers educators and students a view of countries with vastly different systems of government, social and cultural beliefs, and economic standards, increasing the appreciation these educators and students have for the American system of government, economy, and basic personal freedoms when they return to the United States;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The Kentucky Board of Education is urged to encourage its students, teachers, administrators, and educational policy makers to participate in international study and educational exchange programs and other activities that advance cultural awareness and promote mutual understanding and respect for citizens of other countries.

Section 2. The Department of Education is urged to identify international opportunities for learning, educational exchange programs, and the availability of curriculum materials and provide information to local districts that will increase the awareness of Kentucky educators and students of other cultures, languages, economies, and systems of government.

The Committee on Appropriations and Revenue reported **HB 825,** with Committee Substitute attached thereto, and **HB 864,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 825, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) Any limited liability company or registered limited liability partnership that elects to be treated as a corporation under federal income tax law shall be treated as a corporation under Section 2 of this Act and KRS 136.0704, 136.071, 136.073, 136.076, 136.078, 136.090, and 136.100 and shall be subject to the taxes, conditions, and requirements imposed by those provisions.

(2) Any single-member limited liability company that is not treated as an entity separate from its corporate member under federal income tax law shall not be treated as an entity separate from its corporate member under Section 2 of this Act and KRS 136.0704, 136.071, 136.073, 136.076, 136.078, 136.090, and 136.100, but shall instead be subject to the taxes, conditions, and requirements imposed by those provisions.

Section 2. KRS 136.070 is amended to read as follows:

(1) Every corporation ***doing business***[~~organized under the laws of this state, every corporation having its commercial domicile in this state, and every foreign corporation owning or leasing property located in this state or having one (1) or more individuals receiving compensation~~] in this state, except financial institutions as defined in KRS 136.500, savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only, open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940, production credit associations, insurance companies, including farmers' or other mutual hail, cyclone, windstorm or fire insurance companies, insurers and reciprocal underwriters, public service companies subject to taxation under KRS 136.120, those corporations exempted by Section 501 of the Internal Revenue Code, any property or facility which has been certified as an alcohol production facility as defined in KRS 247.910, any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390, and any other religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit, shall pay to the state an annual license tax of two dollars and ten cents ($2.10) on each one thousand dollars ($1,000) of the ***taxable*** capital[~~ employed~~] in the business as computed under the provisions of subsections (2) and (3) of this section, subject to the credit provided in subsection (6) of this section.

(2) ***As used in this section:***

(a) [~~The term ~~]"Capital"[~~ as used in this section~~] means capital stock, surplus, advances by affiliated companies, intercompany accounts, borrowed moneys***, members' capital accounts, or partners' capital accounts.***[~~ or any other accounts representing additional capital used and employed in the business. Accounts properly defined as~~] "Capital"[~~ in this section~~] shall be reported at the value reflected on financial statements prepared for book purposes as of the last day of the calendar or fiscal year;

(b) "***Taxable*** capital[~~ employed~~]," in the case of corporations ***taxable***[~~having property or payroll~~] only in this state, means "capital" as defined above;

(c) "***Taxable*** capital[~~ employed~~]," in the case of corporations ***taxable in***[~~having property or payroll both within and without~~] this state ***and taxable in another state*** means "capital" as defined above and as apportioned under subsection (3) of this section***. A corporation is taxable in another state if, in any state other than Kentucky, the corporation is required to file a return for or pay a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax***;

(d) ***"Doing business in this state"***[~~Property~~] means***:***

1. Organized under the laws of this state;

2. Having a commercial domicile in this state, as defined in KRS 141.120;

3. Owning or leasing property in this state;

4. Having one (1) or more individuals performing services in this state;

5. Deriving income from or attributable to sources within this state; or

6. Directing activities at Kentucky customers for purposes of selling them goods or services[~~either real property or tangible personal property which is either owned or leased. Payroll means compensation, paid to one (1) or more individuals, as described in subsection (3) of this section. Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction~~].

(3) The total capital, as determined under subsection (2) of this section, shall be apportioned as follows:

(a) The total capital shall be multiplied by a fraction, the numerator of which is the property factor plus the payroll factor, plus the sales factor, and the denominator of which is three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll, and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five percent (25%) of the fraction shall be used;

(b) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period; provided, however, that property which has been certified as a pollution control facility as defined in KRS 224.01-300 shall be excluded from the property factor:

1. Property owned by the taxpayer is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero, such property shall be valued by the cabinet under regulations promulgated by the cabinet. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals, provided that such rental and such subrentals are reasonable. If the cabinet determines that the annual rental or subrental rate is unreasonable, or if nominal or zero rate is charged, the cabinet may determine and apply such rental rate as will reasonably reflect the value of the property rented by the taxpayer; and

2. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the cabinet may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property;

(c) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid or payable everywhere during the tax period. Compensation is paid or payable in this state if:

1. The individual's service is performed entirely within the state;
2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or
3. Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state;

(d) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period. Sales of tangible personal property are in this state if:

1. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale;
2. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government; or
3. Sales, other than sales of tangible personal property, are in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(4) If the apportionment provisions of this section do not fairly measure the taxpayer's capital in this state, the taxpayer may petition for or the cabinet may require:

(a) The exclusion of any one (1) or more of the factors;

(b) The inclusion of one (1) or more additional factors which will fairly measure the taxpayer's capital in this state; or

(c) The employment of any other method to produce an equitable apportionment of the taxpayer's capital.

(5) No corporation required to pay an annual license tax under this section shall pay less than thirty dollars ($30).

(6) Every corporation with a gross income of not more than five hundred thousand dollars ($500,000) shall be entitled to a credit equivalent to one dollar and forty cents ($1.40) per one thousand dollars ($1,000) of the initial three hundred and fifty thousand dollars ($350,000) of ***taxable*** capital[~~ employed~~] in the business, as computed under the provisions of KRS 136.070(2) and (3).

Section 3. KRS 139.185 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter to the contrary, the president, vice president, secretary, treasurer or any other person holding any equivalent corporate office of any corporation subject to the provisions of this chapter shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter, and neither the corporate dissolution nor withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the foregoing liability of any person. The personal and individual liability shall apply to each and every person holding the corporate office at the time the taxes become or became due. No person will be personally and individually liable pursuant to this section who had no authority in the management of the business or financial affairs of the corporation at the time that the taxes imposed by this chapter become or became due.

(2) Notwithstanding any other provision of law, the managers or equivalent officeholders of a limited liability company and the partners or equivalent officeholders of a registered limited liability partnership shall be personally and individually liable, both jointly and severally, for the taxes imposed on the company or partnership by this chapter. Liability shall attach only to every manager, partner, or officeholder who had authority to collect, account for, or pay over any tax imposed by this chapter at the time the taxes became or become due. Dissolution, withdrawal of the company or partnership from the state, or the cessation of holding any office or position shall not discharge the liability of any person.

(3) ***"***Taxes***"*** as used in this section shall include interest accrued at the rate provided by KRS ***131.183 and*** 139.650***,***[~~ and~~] all applicable penalties imposed under this chapter and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445 and 131.990.

Section 4. KRS 139.340 is amended to read as follows:

(1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state and making sales of tangible personal property for storage, use or other consumption in this state, shall, at the time of making the sales, or, if

the storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable, collect the tax levied under KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the cabinet. The taxes collected or required to be collected by the retailer under this section shall be deemed to be held in trust for and on account of the Commonwealth of Kentucky.

(2) "Retailer engaged in business in this state" as used in this chapter includes any of the following:

(a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary ***or any other related entity, representative***, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business. Property owned by a person who has contracted with a printer for printing, which consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced, and which is located at the premises of the printer, shall not be deemed to be an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business maintained, occupied, or used by the person;

(b) Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property. An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser, or solicitor for the person;

(c) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media, or other facility or service located in this state;

(d) Any retailer deriving receipts from the lease or rental of tangible personal property situated in this state; or

(e) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, systematic basis if the retailer benefits from an agent ***or representative*** operating in this state under the authority of the retailer to repair or service tangible personal property sold by the retailer***; or***

(f) Any retailer located outside Kentucky that uses a representative, either full-time or part-time, in Kentucky if the representative performs any activities that help maintain or establish a marketplace for the retailer, including receiving or exchanging returned merchandise sold by the retailer.

Section 5. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1999, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 1999, that would otherwise terminate, and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

(e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

(f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;

(i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

2. The "applicable amount" shall be:

a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

3. As used in this paragraph:

a. "Distributions" includes, but is not limited to, any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;

(j) 1. a. Exclude the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and

b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.

2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;

(k) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health insurance which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;

(l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;

(m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;

(n) Exclude any capital gains income attributable to property taken by eminent domain;

(o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement; and

(q) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income[~~, except that such taxes paid to foreign countries may be deducted~~];

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(j) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement; and

(k) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations ***taxable***[~~having property or payroll~~] only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations ***taxable in***[~~having property or payroll both within and without~~] this state ***and taxable in another state*** means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120***. A corporation is taxable in another state if in any state other than Kentucky the corporation is required to file a return for or pay a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax***;

(c)[~~ "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction;~~

~~(d)~~] "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and

(d)[~~(e)~~]"[~~Taxable~~]Net income" in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means ***corporations that have elected S corporation treatment under Section 1362***[~~"S corporations" as defined in Section 1361(a)~~] of the Internal Revenue Code***; and***

(26) "Doing business in this state" means:

(a) Organized under the laws of this state;

(b) Having a commercial domicile in this state, as defined in KRS 141.120;

(c) Owning or leasing property in this state;

(d) Having one (1) or more individuals performing services in this state;

(e) Deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state; or

(f) Directing activities at Kentucky customers for the purpose of selling them goods or services.[~~ Stockholders of a~~

~~corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.~~]

Section 6. KRS 141.040 is amended to read as follows:

(1) Every corporation ***doing business***[~~organized under the laws of this state, every corporation having its commercial domicile as defined in KRS 141.120(1)(b) in this state, and every foreign corporation owning or leasing property located in this state or having one (1) or more individuals receiving compensation as defined in KRS 141.120(8)(b)~~] in this state, except those corporations listed in paragraphs (a) to ***(h)***[~~(i)~~] of this subsection, shall pay for each taxable year a tax to be computed by the taxpayer on taxable net income at the rates specified in subsections (2), (3), and (4) of this section:

(a) S corporations;

(b) Financial institutions, as defined in KRS 136.500, except bankers banks organized under KRS 287.135;

(c) Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;

(d) Banks for cooperatives;

(e) Production credit associations;

(f) Insurance companies, including farmers or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;

(g) Corporations exempt under Section 501 of the Internal Revenue Code; ***and***

(h) Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit.[~~; and~~

~~(i)~~] ***Under this subsection, a corporation is not doing business***[~~Corporations having no individuals receiving compensation as defined in KRS 141.120(8)(b)~~] in this state ***if the corporation's***[~~, and whose~~] only ***activity within***[~~owned or leased property located in~~] this state is ***having property which is*** located at the premises of a printer with which it has contracted for printing, if such property consists of the final printed product, property which becomes a part of the final printed product, or copy from which the ***final*** printed product is produced.

(2) For tax years ending before January 1, 1990, the following rates shall apply:

(a) Three percent (3%) of the first twenty-five thousand dollars ($25,000) of taxable net income;

(b) Four percent (4%) of the amount of taxable net income in excess of twenty-five thousand dollars ($25,000), but not in excess of fifty thousand dollars ($50,000);

(c) Five percent (5%) of the amount of taxable net income in excess of fifty thousand dollars ($50,000), but not in excess of one hundred thousand dollars ($100,000);

(d) Six percent (6%) of the amount of taxable net income in excess of one hundred thousand dollars ($100,000), but not in excess of two hundred fifty thousand dollars ($250,000); and

(e) Seven and twenty-five one hundredths percent (7.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars ($250,000).

(3) For tax years beginning after December 31, 1989, the following rates shall apply:

(a) Four percent (4%) of the first twenty-five thousand dollars ($25,000) ~~of~~ taxable net income;

(b) Five percent (5%) of the amount of taxable net income in excess of twenty-five thousand dollars ($25,000) but not in excess of fifty thousand dollars ($50,000);

(c) Six percent (6%) of the amount of taxable net income in excess of fifty thousand dollars ($50,000), but not in excess of one hundred thousand dollars ($100,000);

(d) Seven percent (7%) of the amount of taxable net income in excess of one hundred thousand dollars ($100,000), but not in excess of two hundred fifty thousand dollars ($250,000); and

(e) Eight and twenty-five one hundredths percent (8.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars ($250,000).

(4) For tax years beginning before January 1, 1990, and ending after December 31, 1989, the tax shall be the sum of the amounts determined in paragraphs (a) and (b) as follows:

(a) Apply the tax rates in subsection (2) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from the first day of the taxable year through December 31, 1989, and the denominator of which is the total number of days of the taxable year; and

(b) Apply the tax rates in subsection (3) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from January 1, 1990, through the last day of the taxable year and the denominator of which is the total number of days of the taxable year.

(5) Every S corporation shall pay the tax imposed under subsection (1) of this section whenever the net capital gain of such corporation exceeds twenty-five thousand dollars ($25,000), and exceeds fifty percent (50%) of its taxable income for the taxable year and its taxable income for such year exceeds twenty-five thousand dollars ($25,000). The tax imposed by this

subsection shall be the lower of:

(a) The tax determined by applying the rates in this section to the capital gains, in excess of twenty-five thousand dollars ($25,000), determined under the Internal Revenue Code; or

(b) The tax determined by applying the rates in this section to the taxable income, in excess of twenty-five thousand dollars ($25,000);

In no event shall the tax levied by this subsection apply if Section 1374 of the Internal Revenue Code would exempt such capital gains from federal income tax.

Section 7. KRS 141.206 is amended to read as follows:

(1) Every partnership or S corporation ***doing***[~~owning property or engaging in~~] business in ***this state***[~~Kentucky~~], shall, on or before the fifteenth day of the fourth month following the close of its annual accounting period, file a copy of its federal partnership return or S corporation return with the form prescribed and furnished by the cabinet.

(2) Partnerships and S corporations shall determine taxable income in the same manner as in the case of an individual under KRS 141.010(9) to (11) and the adjustment required under Sections 703(a) and 1363(b) of the Internal Revenue Code. Computation of taxable income under this section and the computation of the partners or shareholders distributive share shall be computed as nearly as practicable identical with those required for federal income tax purposes except to the extent required by differences between this chapter and the federal income tax law and regulations.

(3) Individuals or corporations ***doing***[~~carrying on a~~] business ***in this state*** as a partnership or S corporation shall be liable for income tax only in their individual or corporate capacities, and no income tax shall be assessed upon the income of any partnership or S corporation except as prescribed in KRS 141.040(5).

(a) Resident and nonresident individuals who are partners or S corporation shareholders must report and pay tax on the distributive share of net income, gain, loss, deduction, or credit, as determined in subsection (2) of this section, except as provided in subsections (4) and (5) of this section. Partnerships and S corporations may be required to withhold Kentucky income tax on the distributive share under administrative regulations issued by the cabinet.

(b) Corporations which are partners must include their distributive share of net income, gain, loss, deduction or credit, as determined under subsection (2) of this section, except as provided in subsections (4) and (5) of this section.

(4) Resident and nonresident individuals and corporations which are partners in a partnership or shareholders in an S corporation ***doing***[~~carrying on~~] business only in ***this state***[~~Kentucky~~] are taxable on all items of income gain, loss, deduction or credit determined under subsection (2) of this section and reported as their distributive share from the partnership or S corporation.

(5) Nonresident individuals and corporations which are partners in a partnership or shareholders in an S corporation ***doing***[~~which does~~] business within and without ***this state***[~~Kentucky~~] are taxable on their proportionate share of the distributive income passed through the partnership or S corporation attributable to business done in ***this state***[~~Kentucky~~].

[~~(a)~~]Business done in ***this state***[~~Kentucky~~] is determined by ***a fraction, the numerator of which is the property factor, plus the payroll factor, plus the sales factor, and the denominator of which is four (4), all determined under KRS 141.120(8). The property factor shall represent twenty-five percent (25%) of the fraction, the payroll factor shall represent twenty-five percent (25%) of the fraction, and the sales factor shall represent fifty percent (50%) of the fraction***[~~the ratio of gross receipts from sales to purchasers or customers in Kentucky or services performed in Kentucky to the total gross receipts from sales or service everywhere~~].

(6) Resident partners, S corporation shareholders and corporations which are partners in a multistate partnership or shareholders in a multistate S corporation are taxable on one hundred percent (100%) of the distributive share of income, gains, losses, deductions or credits.

(7) Resident individuals who are partners in a partnership or shareholders in an S corporation which does not ***do***[~~carry on~~] business in ***this state***[~~Kentucky~~] are subject to tax under KRS 141.020 on federal net income, gain, deduction, loss or credit passed through the partnership or S corporation.

[~~(8) S corporation for purpose of this section means a corporation which has elected for federal tax purposes to be taxed as an S corporation. An election for federal tax purposes is a binding election for Kentucky tax purposes.~~]

Section 8. KRS 141.340 is amended to read as follows:

(1) An employer shall be liable for the payment of the tax required to be deducted and withheld under KRS 141.310 and 141.315, and shall not be liable to any person for the amount of any such payment.

(2) The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any corporation subject to KRS 141.310 or 141.315 shall be personally and individually liable, both jointly and severally, for any tax required to be withheld under this chapter from wages paid to one (1) or more employees of any such corporation, and neither the corporate dissolution or withdrawal of the corporation from the state nor the cessation of holding any such corporate office shall discharge the foregoing liability of any such person; provided that the personal and individual liability shall apply ***only*** to each or every person holding such corporate office ***who had authority in the management of the business or financial affairs of the corporation*** at the time such tax becomes or became obligated.

(3) Notwithstanding any other provision of law, the managers or equivalent officeholders of a limited liability company

and the partners or equivalent officeholders of a registered limited liability partnership shall be personally and individually liable, both jointly and severally, for any tax required to be withheld by the company or partnership under this chapter from wages paid to any employee. Liability shall attach only to every manager, partner, or officeholder who had authority to collect, account for, or pay over any tax imposed by this chapter at the time the taxes become or became due. Dissolution, withdrawal of the company or partnership from the state, or the cessation of holding any office or position shall not discharge the liability of any person.

(4) "Tax" in this section shall include tax interest under KRS 131.183, all applicable penalties imposed under this chapter, and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.

Section 9. KRS 142.357 is amended to read as follows:

(1) Notwithstanding any other provisions of KRS 142.301 to 142.359, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of KRS 142.301 to 142.359 shall be personally and individually liable jointly and severally, for the taxes imposed under KRS 142.303, 142.307, 142.309, and 142.311. Neither the corporate dissolution or withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the liability imposed by this section. The personal and individual liability shall apply to each and every person holding a corporate office at the time the taxes become or became due. No person will be personally and individually liable pursuant to this section if that person did not have authority in the management of the business or financial affairs of the corporation at the time the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311 become or became due.

(2) Notwithstanding any other provision of law, the managers or equivalent officeholders of a limited liability company and the partners or equivalent officeholders of a registered limited liability partnership shall be personally and individually liable, both jointly and severally, for the taxes imposed on the company or partnership by KRS 142.301 to 142.359. Liability shall attach only to every manager, partner, or officeholder who had authority to collect, account for, or pay over any tax imposed by KRS 142.301 to 142.359 at the time the taxes become or became due. Dissolution, withdrawal of the company or partnership from the state, or the cessation of holding any office or position shall not discharge the liability of any person.

(3) "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.010(6) ***and 131.183,*** and all applicable penalties and fees imposed under ***this chapter***[~~the provisions of KRS 142.301 to 142.359~~] and ***under*** KRS 131.180, 131.440, and 131.990.

Section 10. KRS 143.085 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter to the contrary, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of this chapter shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter, and neither the corporate dissolution nor withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the foregoing liability of any person. The personal and individual liability shall apply to each and every person holding corporate office at the time the taxes become or became due. No person will be personally and individually liable pursuant to this section who had no authority in the management of the business or financial affairs of the corporation at the time that the taxes imposed by this chapter become or became due.

(2) Notwithstanding any other provision of law, the managers or equivalent officeholders of a limited liability company and the partners or equivalent officeholders of a registered limited liability partnership shall be personally and individually liable, both jointly and severally, for the taxes imposed on the company or partnership by KRS Chapter 143. Liability shall attach only to every manager, partner, or officeholder who had authority to collect, account for, or pay over any tax imposed by KRS Chapter 143 at the time the taxes become or became due. Dissolution, withdrawal of the company or partnership from the state, or the cessation of holding any office or position shall not discharge the liability of any person.

(3) ***"***Taxes***"*** as used in this section include interest accrued at the rate provided by KRS ***131.183 and*** 143.080,[~~ and~~] all applicable penalties imposed under this chapter, and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.

Section 11. KRS 275.150 is amended to read as follows:

(1) Except as provided in subsection (2) of this section***, in Sections 3, 8, 9, and 10 of this Act,*** or as otherwise specifically set forth in other sections in this chapter, no member, manager, employee, or agent of a limited liability company, including a professional limited liability company, shall be personally liable by reason of being a member, manager, employee, or agent of the limited liability company, under a judgment, decree, or order of a court, agency, or tribunal of any type, or in any other manner, in this or any other state, or on any other basis, for a debt, obligation, or liability of the limited liability company, whether arising in contract, tort, or otherwise. The status of a person as a member, manager, employee, or agent of a limited liability company, including a professional limited liability company, shall not subject the person to personal liability for the acts or omissions, including any negligence, wrongful act, or actionable misconduct, of any other member, manager, agent, or employee of the limited liability company.

(2) Notwithstanding the provisions of subsection (1) of this section, under a written operating agreement or under another written agreement, a member or manager may agree to be obligated personally for any of the debts, obligations, and

liabilities of the limited liability company.

Section 12. KRS 362.220 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, all partners shall be liable:

(a) Jointly and severally for everything chargeable to the partnership under KRS 362.210 and 362.215; and

(b) Jointly for all other debts and obligations of the partnership; but any partner may enter into a separate obligation to perform a partnership contract.

(2) Subject to subsection (3) of this section *and to Sections 3, 8, 9, and 10 of this Act,* and subject to any agreement among the partners, a partner in a registered limited liability partnership shall not be liable directly or indirectly, including by way of indemnification, contribution, assessment or otherwise, for debts, obligations, and liabilities of or chargeable to the partnership, whether arising in tort, contract, or otherwise, arising from negligence, malpractice, wrongful acts, or misconduct committed while the partnership is a registered limited liability partnership and in the course of the partnership business by another partner or an employee, agent, or representative of the partnership.

(3) Subsection (2) of this section shall not affect the liability of a partner in a registered limited liability partnership for his own negligence, wrongful acts, or misconduct.

SECTION 13. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of Sections 13 to 22 of this Act, "wholesale sale" or "sale at wholesale" means a sale made for the purpose of resale in the regular course of business of smokeless tobacco, cigars, loose tobacco, and pipe tobacco, except as provided in subsection (3) of this section.

(2) For the privilege of making wholesale sales or sales at wholesale of smokeless tobacco, cigars, loose tobacco, and pipe tobacco, a tax is hereby imposed upon all wholesalers and distributors of smokeless tobacco, cigars, loose tobacco, and pipe tobacco at the rate of eight percent (8%) of the gross receipts of any wholesaler or distributor derived from sales at wholesale or wholesale sales made within the Commonwealth except as provided in subsection (3) of this section. Wholesalers of smokeless tobacco, cigars, loose tobacco, and pipe tobacco shall pay and report the tax levied by this section on or before the twentieth day of the calendar month next succeeding the month in which possession or title of the smokeless tobacco, cigars, loose tobacco, and pipe tobacco is transferred from the wholesaler or distributor to retailers or consumers in this state, in accordance with administrative regulations promulgated by the Revenue Cabinet.

(3) Gross receipts from sales at wholesale or wholesale sales shall not include the sales made between wholesalers or between distributors.

SECTION 14. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) Every wholesaler or distributor liable for the tax levied under Section 13 of this Act shall, before August 1, 2002, obtain a certificate of registration by filing with the Revenue Cabinet an application containing information as the cabinet may prescribe. Every application shall be signed by the owner, an executive officer, or some person specifically authorized to sign the application.

(2) Whenever any wholesaler or distributor fails to comply with any provisions of Sections 13 to 22 of this Act or any administrative regulation promulgated by the cabinet, the cabinet may suspend or revoke the certificate of registration held by the wholesaler or distributor.

(3) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin operation of a wholesaler or distributor operating without a certificate of registration. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the business entity.

SECTION 15. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) Returns for the tax levied under Section 13 of this Act shall be signed by the duly authorized agent of the business entity.

(2) Returns required under this section shall contain information as the Revenue Cabinet deems necessary for the proper administration of Sections 13 to 22 of this Act.

(3) The wholesaler or distributor required to file the return provided under this section shall deliver the return together with a remittance of the amount of the tax due to the Revenue Cabinet.

(4) For purposes of facilitating the administration, payment, or collection of the taxes levied under Section 13 of this Act, the cabinet may permit or require returns or tax payments for periods other than monthly. When permitted, returns for other than monthly periods shall be filed and paid in the manner as prescribed by the cabinet.

(5) No wholesaler or distributor shall change from the reporting system required under this section or permitted in writing by the cabinet, without the written authorization of the cabinet.

(6) A tax return is required for each reporting period even though there may be no tax due.

SECTION 16. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) The Revenue Cabinet may upon written request received on or prior to the due date of the return or tax, for good cause satisfactory to the cabinet, extend the time for filing the return or paying the tax for a period not exceeding thirty (30)

days.

(2) Any wholesaler or distributor granted an extension and paying the tax within the period for which the extension is granted shall pay, in addition to the tax, interest at the tax interest rate as defined in KRS 131.010(6) from the date on which the tax would otherwise have been due.

SECTION 17. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) As soon as practicable after each return is received, the Revenue Cabinet shall examine and audit it. If the amount of tax computed by the cabinet is greater than the amount returned by the wholesaler or distributor, the excess shall be assessed by the cabinet within four (4) years from the date the return was filed, except as provided in subsection (4) of this section and except that in the case of a failure to file a return or of a fraudulent return the excess may be assessed at any time. A notice of the assessment shall be mailed to the business entity. The time provided in this section may be extended by agreement between the taxpayer and the cabinet.

(2) For the purpose of subsections (1) and (4) of this section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on the last day.

(3) When a wholesaler or distributor is discontinued, a determination may be made at any time thereafter within the periods specified in subsection (1) of this section as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in Section 15 of this Act.

(4) Notwithstanding the four (4) year time limitation of subsection (1) of this section, in the case of a return where the tax computed by the cabinet is greater by twenty-five percent (25%) or more than the amount returned by the wholesaler or distributor the excess shall be assessed by the cabinet within six (6) years from the date the return was filed.

SECTION 18. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

In every case, any tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

SECTION 19. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

In making a determination of tax liability the Revenue Cabinet may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.

SECTION 20. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) Every wholesaler or distributor liable for the reporting or payment of the taxes levied by Section 13 of this Act shall keep such records, receipts, invoices, and other pertinent papers in such form as the Revenue Cabinet may require.

(2) Every wholesaler or distributor shall keep these records for not less than four (4) years from the making of records unless the cabinet in writing sooner authorizes their destruction.

SECTION 21. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) The taxes paid pursuant to the provisions of Section 13 of this Act shall be refunded or credited in the manner provided in KRS 134.580.

(2) A claim for refund or credit shall be made on a form prescribed by the Revenue Cabinet and shall contain information as the cabinet may require.

SECTION 22. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

Any wholesaler or distributor that violates any of the provisions of Sections 13 to 22 of this Act shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.

Section 23. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of *thirteen and six-tenths cents ($0.136)*[~~thirty one and one half cents ($0.315)~~] upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 directed to be assessed for taxation, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of all money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81, fifteen cents ($0.15) upon machinery actually engaged in manufacturing, fifteen cents ($0.15) upon commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents ($0.15) upon

property which has been certified as a pollution control facility as defined in KRS 224.01-300, one-tenth of one cent ($0.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five cents ($0.45) upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed, except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.300, 136.320, and other sections providing a different tax rate for particular property.

(2) (a) An annual ad valorem tax for state purposes of one and one-half cents ($0.015) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when the intangible personal properties have not acquired a taxable situs without this state:

1. Accounts receivable, notes, bonds, credits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;

2. Patents, trademarks, copyrights, and licensing or royalty agreements relating to these;

3. Notes, bonds, accounts receivable, and all other intercompany intangible personal property due from any affiliated company; and

4. Tobacco base allotments.

(b) An annual ad valorem tax for state purposes of one-thousandth of one percent (0.001%) shall be paid upon money in hand, notes, bonds, accounts, credits, and other intangible assets, whether by mortgage, pledge, or otherwise, or unsecured, of financial institutions, as defined in KRS 136.500.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school, or other taxing district on the intangible properties, or directly or indirectly against the owner.

(5) Thirty cents ($0.30) of the thirty-one and one-half cents ($0.315) state tax rate on real property and thirty cents ($0.30) of the forty-five cents ($0.45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents ($0.30), as certified by the Department of Education, the direct payments shall be reduced proportionately.

(6)[~~The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%). In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.~~

~~(7) By July 1 each year, the cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (5) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the cabinet shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the cabinet, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the cabinet, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.~~

~~(8) If the tax rate set by the cabinet as provided in subsection (6) of this section produces more than a four percent (4%) increase in real property tax revenues, the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.~~

~~(9) The provisions of subsection (6) of this section notwithstanding, the assessed value of unmined coal certified by the cabinet after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (6) of this section.~~] The ***state real property tax***[~~calculated~~] rate shall[~~, however,~~] be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 to 146.570, except that four hundred thousand dollars ($400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Kentucky Coal Council for the purpose of public education of coal-related issues.

(7)[~~(10)~~] Effective on or after January 1, 1990, an ad valorem tax for state purposes of five cents ($0.05) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business, which, on or after January 1, 1999, includes machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement; and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business.

(8)[~~(11)~~] An ad valorem tax for state purposes of ten cents ($0.10) per one hundred dollars ($100) of assessed value shall be paid on the operating property of railroads or railway companies that operate solely within the Commonwealth.

(9)[~~(12)~~] An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on aircraft not used in the business of transporting persons or property for compensation or hire.

(10)[~~(13)~~] An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes.

(11) Motor vehicles assessed under KRS 132.485 with a total assessed value of five thousand dollars ($5,000) or less shall be exempted from ad valorem tax for state purposes for assessments on or after January 1, 2003.

Section 24. KRS 134.810 is amended to read as follows:

(1) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes shall be due and payable on or before the earlier of the last day of the month in which registration renewal is required by law for a motor vehicle renewed or the last day of the month in which a vehicle is transferred.

(2) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the earlier of the end of the month in which registration renewal is required by law or the last day of the second calendar month following the month in which a vehicle was transferred.

(3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due. However, this penalty shall be waived if the tax bill is paid within five (5) days of the tax bill being declared delinquent. Any taxes which are not paid within thirty (30) days of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on said taxes and penalty from the date of delinquency. A penalty or interest shall not accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.

(4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the owner of record on January 1 of any year shall be liable for the taxes on the motor vehicle, except as hereinafter provided.

(5) If an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, city, urban-county government, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration shall be due and payable on or before the last day of the first birth month following the assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.

(6) For purposes of the state ad valorem tax only, all motor vehicles held for sale by a licensed Kentucky dealer and all motor vehicles with a salvage title held by an insurance company on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS 132.485 but shall be subject to ad valorem tax as goods held for sale in the regular course of business under the provisions of KRS 132.020*(7)*[~~(10)~~] and 132.220.

(7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor vehicle becomes delinquent, the state and each county, city, urban-county government, or other taxing district shall have a lien on all motor vehicles owned or acquired by the person who owned the motor vehicle at the time the tax liability arose. A lien for delinquent ad valorem taxes shall not attach to any motor vehicle transferred while the taxes are due on that vehicle. For the purpose of delinquent ad valorem taxes on leased vehicles only, a lien on a leased vehicle shall not be attached to another vehicle owned by the lessor.

(8) The lien required by subsection (7) of this section shall be filed and released by the automatic entry of appropriate information in the AVIS database. For the filing and release of each lien or set of liens arising from motor vehicle ad valorem property tax delinquency, a fee of one dollar ($1) shall be added to the delinquent tax account. The fee shall be collected and retained by the county clerk who collects the delinquent tax.

(9) The implementation of the automated lien system provided in this section shall not affect the manner in which commercial liens are recorded or released.

Section 25. The following KRS section is repealed:

134.295 Supplementation of sheriff's commission.

Section 26. Sections 1, 2, 5, 6, and 7 of this Act shall apply for taxable years beginning after December 31, 2001. Sections 4 and 13 to 22 apply to sales made after June 30, 2002. Section 23 applies for assessments made on or after January 1, 2003.

The Committee Substitute to **HB 825** is as follows:

HB 825, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) Any limited liability company or registered limited liability partnership that elects to be treated as a corporation under federal income tax law shall be treated as a corporation under Section 2 of this Act and KRS 136.0704, 136.071, 136.073, 136.076, 136.078, 136.090, and 136.100 and shall be subject to the taxes, conditions, and requirements imposed by those provisions.

(2) Any single-member limited liability company that is not treated as an entity separate from its corporate member under federal income tax law shall not be treated as an entity separate from its corporate member under Section 2 of this Act and KRS 136.0704, 136.071, 136.073, 136.076, 136.078, 136.090, and 136.100, but shall instead be subject to the taxes, conditions, and requirements imposed by those provisions.

Section 2. KRS 136.070 is amended to read as follows:

(1) Every corporation ***doing business***~~[organized under the laws of this state, every corporation having its commercial domicile in this state, and every foreign corporation owning or leasing property located in this state or having one (1) or more individuals receiving compensation]~~ in this state, except financial institutions as defined in KRS 136.500, savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only, open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940, production credit associations, insurance companies, including farmers' or other mutual hail, cyclone, windstorm or fire insurance companies, insurers and reciprocal underwriters, public service companies subject to taxation under KRS 136.120, those corporations exempted by Section 501 of the Internal Revenue Code, any property or facility which has been certified as an alcohol production facility as defined in KRS 247.910, any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390, and any other religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit, shall pay to the state an annual license tax of two dollars and ten cents ($2.10) on each one thousand dollars ($1,000) of the ***taxable*** capital~~[employed]~~ in the business as computed under the provisions of subsections (2) and (3) of this section, subject to the credit provided in subsection (6) of this section.

(2) ***As used in this section:***

(a) ~~[The term]~~"Capital"~~[as used in this section]~~ means capital stock, surplus, advances by affiliated companies, intercompany accounts, borrowed moneys***, members' capital accounts, or partners' capital accounts.***~~[or any other accounts representing additional capital used and employed in the business. Accounts properly defined as]~~ "Capital"~~[in this section]~~ shall be reported at the value reflected on financial statements prepared for book purposes as of the last day of the calendar or fiscal year;

(b) "***Taxable*** capital~~[employed]~~," in the case of corporations ***taxable***~~[having property or payroll]~~ only in this state, means "capital" as defined above;

(c) "***Taxable*** capital~~[employed]~~," in the case of corporations ***taxable in***~~[having property or payroll both within and without]~~ this state ***and taxable in another state*** means "capital" as defined above and as apportioned under subsection (3) of this section***. A corporation is taxable in another state if, in any state other than Kentucky, the corporation is required to file a return for or pay a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax***;

(d) ***"Doing business in this state"***~~[Property]~~ means***:***

1. Organized under the laws of this state;

2. Having a commercial domicile in this state, as defined in KRS 141.120;

3. Owning or leasing property in this state;

4. Having one (1) or more individuals performing services in this state;

5. Deriving income from or attributable to sources within this state; or

6. Directing activities at Kentucky customers for purposes of selling them goods or services~~[either real property or tangible personal property which is either owned or leased. Payroll means compensation, paid to one (1) or more individuals, as described in subsection (3) of this section. Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction]~~.

(3) The total capital, as determined under subsection (2) of this section, shall be apportioned as follows:

(a) The total capital shall be multiplied by a fraction, the numerator of which is the property factor plus the payroll factor, plus the sales factor, and the denominator of which is three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll, and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five percent (25%) of the fraction shall be used;

(b) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period; provided, however, that property which has been certified as a pollution control facility as defined in KRS 224.01-300 shall be excluded from the property factor:

1. Property owned by the taxpayer is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero, such property shall be valued by the cabinet under regulations promulgated by the cabinet. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals, provided that such rental and such subrentals are reasonable. If the cabinet determines that the annual rental or subrental rate is unreasonable, or if nominal or zero rate is charged, the cabinet may determine and apply such rental rate as will reasonably reflect the value of the property rented by the taxpayer; and

2. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the cabinet may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property;

(c) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid or payable everywhere during the tax period. Compensation is paid or payable in this state if:

1. The individual's service is performed entirely within the state;

2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

3. Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state;

(d) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period. Sales of tangible personal property are in this state if:

1. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale;

2. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government; or

3. Sales, other than sales of tangible personal property, are in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(4) If the apportionment provisions of this section do not fairly measure the taxpayer's capital in this state, the taxpayer may petition for or the cabinet may require:

(a) The exclusion of any one (1) or more of the factors;

(b) The inclusion of one (1) or more additional factors which will fairly measure the taxpayer's capital in this state; or

(c) The employment of any other method to produce an equitable apportionment of the taxpayer's capital.

(5) No corporation required to pay an annual license tax under this section shall pay less than thirty dollars ($30).

(6) Every corporation with a gross income of not more than five hundred thousand dollars ($500,000) shall be entitled to a credit equivalent to one dollar and forty cents ($1.40) per one thousand dollars ($1,000) of the initial three hundred and fifty thousand dollars ($350,000) of ***taxable*** capital[~~ employed~~] in the business, as computed under the provisions of KRS 136.070(2) and (3).

Section 3. KRS 139.185 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter to the contrary, the president, vice president, secretary, treasurer or any other person holding any equivalent corporate office of any corporation subject to the provisions of this chapter shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter, and neither the corporate dissolution nor withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the foregoing liability of any person. The personal and individual liability shall apply to each and every person holding the corporate office at the time the taxes become or became due. No person will be personally and individually liable pursuant to this section who had no authority in the management of the business or financial affairs of the corporation at the time that the taxes imposed by this chapter become or became due.

(2) Notwithstanding any other provision of law, the managers or equivalent officeholders of a limited liability company and the partners or equivalent officeholders of a registered limited liability partnership shall be personally and individually liable, both jointly and severally, for the taxes imposed on the company or partnership by this chapter. Liability shall attach only to every manager, partner, or officeholder who had authority to collect, account for, or pay over any tax imposed by this chapter at the time the taxes became or become due. Dissolution, withdrawal of the company or partnership from the state, or the cessation of holding any office or position shall not discharge the liability of any person.

(3) ***"***Taxes***"*** as used in this section shall include interest accrued at the rate provided by KRS ***131.183 and*** 139.650***,***[~~ and~~] all applicable penalties imposed under this chapter and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445 and 131.990.

Section 4. KRS 139.340 is amended to read as follows:

(1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state and making sales of tangible personal property for storage, use or other consumption in this state, shall, at the time of making the sales, or, if the storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable, collect the tax levied under KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the cabinet. The taxes collected or required to be collected by the retailer under this section shall be deemed to be held in trust for and on account of the Commonwealth of Kentucky.

(2) "Retailer engaged in business in this state" as used in this chapter includes any of the following:

(a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary ***or any other related entity, representative***, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business. Property owned by a person who has contracted with a printer for printing, which consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced, and which is located at the premises of the printer, shall not be deemed to be an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business maintained, occupied, or used by the person;

(b) Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property. An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser, or solicitor for the person;

(c) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media, or other facility or service located in this state;

(d) Any retailer deriving receipts from the lease or rental of tangible personal property situated in this state; or

(e) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, systematic basis if the retailer benefits from an agent ***or representative*** operating in this state under the authority of the retailer to repair or service tangible personal property sold by the retailer***; or***

(f) Any retailer located outside Kentucky that uses a representative, either full-time or part-time, in Kentucky if the representative performs any activities that help maintain or establish a marketplace for the retailer, including receiving or exchanging returned merchandise sold by the retailer.

Section 5. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1999, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 1999, that would otherwise terminate, and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

(e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

(f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;

(i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

2. The "applicable amount" shall be:

a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

3. As used in this paragraph:

a. "Distributions" includes, but is not limited to, any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;

(j) 1. a. Exclude the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and

b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.

2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed

under KRS 136.300 shall be the same as the basis for federal income tax purposes;

(k) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health insurance which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;

(l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;

(m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;

(n) Exclude any capital gains income attributable to property taken by eminent domain;

(o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement; and

(q) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;

(11) *(a)* "Net income" in the case of taxpayers other than corporations*, for taxable years beginning before January 1, 2003,* means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

1.[~~(a)~~] Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income[~~, except that such taxes paid to foreign countries may be deducted~~];

2.[~~(b)~~] Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

3.[~~(c)~~] The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

4.[~~(d)~~] Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(b) "Net income" in the case of taxpayers other than corporations, for taxable years beginning on or after January 1, 2003, means adjusted gross income as defined in subsection (10) of this section, minus sixty-five percent (65%) of the personal exemption under Internal Revenue Code Section 151 as of December 31, 2001, minus the standard deduction, as of December 31, 2001, for the appropriate filing status under Internal Revenue Code Section 63(c), or, at the option of the taxpayer, the deduction allowed by KRS 141.0202, and all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except the following, and except that deductions shall be limited to amounts allocable to income subject to taxation under this chapter, and no item shall be deducted more than once:

1. Any deduction for state taxes measured by gross or net income;

2. Any deduction for amounts allowable under KRS 140.090(1)(h), unless there is filed with the income return a statement that the deduction has not been claimed under KRS 140.090(1)(h); and

3. Any deduction for amounts paid to any club, organization, or establishment which has been judged by the courts, or by any agency established by the General Assembly and charged with enforcing Kentucky's civil rights laws, not to afford full and equal membership or enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex. However, this prohibition does not apply to amounts paid to any religious or denominational club, group, establishment, or organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination to promote the religious principles for which it is established and maintained.

(c) For taxable years beginning on or after January 1, 2003, if a taxpayer other than a corporation is not required to file a federal individual income tax return under federal law, the taxpayer's net income shall be zero (0).

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(j) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement; and

(k) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations ***taxable***[~~having property or payroll~~] only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations ***taxable in***[~~having property or payroll both within and without~~] this state ***and taxable in another state*** means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120***. A corporation is taxable in another state if in any state other than Kentucky the corporation is required to file a return for or pay a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax***;

(c)[~~"Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction;~~

~~(d)~~] "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue

Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and

(d)~~[(e)]~~"~~[Taxable]~~Net income" in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means ***corporations that have elected S corporation treatment under Section 1362***~~["S corporations" as defined in Section 1361(a)]~~ of the Internal Revenue Code***; and***

(26) "Doing business in this state" means:

(a) Organized under the laws of this state;

(b) Having a commercial domicile in this state, as defined in KRS 141.120;

(c) Owning or leasing property in this state;

(d) Having one (1) or more individuals performing services in this state;

(e) Deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state; or

(f) Directing activities at Kentucky customers for the purpose of selling them goods or services.~~[Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.]~~

Section 6. KRS 141.040 is amended to read as follows:

(1) Every corporation ***doing business***~~[organized under the laws of this state, every corporation having its commercial domicile as defined in KRS 141.120(1)(b) in this state, and every foreign corporation owning or leasing property located in this state or having one (1) or more individuals receiving compensation as defined in KRS 141.120(8)(b)]~~ in this state, except those corporations listed in paragraphs (a) to ***(h)***~~[(i)]~~ of this subsection, shall pay for each taxable year a tax to be computed by the taxpayer on taxable net income at the rates specified in subsections (2), (3), and (4) of this section:

(a) S corporations;

(b) Financial institutions, as defined in KRS 136.500, except bankers banks organized under KRS 287.135;

(c) Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;

(d) Banks for cooperatives;

(e) Production credit associations;

(f) Insurance companies, including farmers or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;

(g) Corporations exempt under Section 501 of the Internal Revenue Code; ***and***

(h) Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit.~~[; and~~

~~(i)]~~ ***Under this subsection, a corporation is not doing business***~~[Corporations having no individuals receiving compensation as defined in KRS 141.120(8)(b)]~~ in this state ***if the corporation's***~~[, and whose]~~ only ***activity within***~~[owned or leased property located in]~~ this state is ***having property which is*** located at the premises of a printer with which it has contracted for printing, if such property consists of the final printed product, property which becomes a part of the final printed product, or copy from which the ***final*** printed product is produced.

(2) For tax years ending before January 1, 1990, the following rates shall apply:

(a) Three percent (3%) of the first twenty-five thousand dollars ($25,000) of taxable net income;

(b) Four percent (4%) of the amount of taxable net income in excess of twenty-five thousand dollars ($25,000), but not in excess of fifty thousand dollars ($50,000);

(c) Five percent (5%) of the amount of taxable net income in excess of fifty thousand dollars ($50,000), but not in excess of one hundred thousand dollars ($100,000);

(d) Six percent (6%) of the amount of taxable net income in excess of one hundred thousand dollars ($100,000), but not in excess of two hundred fifty thousand dollars ($250,000); and

(e) Seven and twenty-five one hundredths percent (7.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars ($250,000).

(3) For tax years beginning after December 31, 1989, the following rates shall apply:

(a) Four percent (4%) of the first twenty-five thousand dollars ($25,000) of taxable net income;

(b) Five percent (5%) of the amount of taxable net income in excess of twenty-five thousand dollars ($25,000) but not in excess of fifty thousand dollars ($50,000);

(c) Six percent (6%) of the amount of taxable net income in excess of fifty thousand dollars ($50,000), but not in excess of one hundred thousand dollars ($100,000);

(d) Seven percent (7%) of the amount of taxable net income in excess of one hundred thousand dollars ($100,000), but not in excess of two hundred fifty thousand dollars ($250,000); and

(e) Eight and twenty-five one hundredths percent (8.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars ($250,000).

(4) For tax years beginning before January 1, 1990, and ending after December 31, 1989, the tax shall be the sum of the amounts determined in paragraphs (a) and (b) as follows:

(a) Apply the tax rates in subsection (2) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from the first day of the taxable year through December 31, 1989, and the denominator of which is the total number of days of the taxable year; and

(b) Apply the tax rates in subsection (3) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from January 1, 1990, through the last day of the taxable year and the denominator of which is the total number of days of the taxable year.

(5) Every S corporation shall pay the tax imposed under subsection (1) of this section whenever the net capital gain of such corporation exceeds twenty-five thousand dollars ($25,000), and exceeds fifty percent (50%) of its taxable income for the taxable year and its taxable income for such year exceeds twenty-five thousand dollars ($25,000). The tax imposed by this subsection shall be the lower of:

(a) The tax determined by applying the rates in this section to the capital gains, in excess of twenty-five thousand dollars ($25,000), determined under the Internal Revenue Code; or

(b) The tax determined by applying the rates in this section to the taxable income, in excess of twenty-five thousand dollars ($25,000);

In no event shall the tax levied by this subsection apply if Section 1374 of the Internal Revenue Code would exempt such capital gains from federal income tax.

Section 7. KRS 141.206 is amended to read as follows:

(1) Every partnership or S corporation ***doing***[~~owning property or engaging in~~] business in ***this state***[~~Kentucky~~], shall, on or before the fifteenth day of the fourth month following the close of its annual accounting period, file a copy of its federal partnership return or S corporation return with the form prescribed and furnished by the cabinet.

(2) Partnerships and S corporations shall determine taxable income in the same manner as in the case of an individual under KRS 141.010(9) to (11) and the adjustment required under Sections 703(a) and 1363(b) of the Internal Revenue Code. Computation of taxable income under this section and the computation of the partners or shareholders distributive share shall be computed as nearly as practicable identical with those required for federal income tax purposes except to the extent required by differences between this chapter and the federal income tax law and regulations.

(3) Individuals or corporations ***doing***[~~carrying on a~~] business ***in this state*** as a partnership or S corporation shall be liable for income tax only in their individual or corporate capacities, and no income tax shall be assessed upon the income of any partnership or S corporation except as prescribed in KRS 141.040(5).

(a) Resident and nonresident individuals who are partners or S corporation shareholders must report and pay tax on the distributive share of net income, gain, loss, deduction, or credit, as determined in subsection (2) of this section, except as provided in subsections (4) and (5) of this section. Partnerships and S corporations may be required to withhold Kentucky income tax on the distributive share under administrative regulations issued by the cabinet.

(b) Corporations which are partners must include their distributive share of net income, gain, loss, deduction or credit, as determined under subsection (2) of this section, except as provided in subsections (4) and (5) of this section.

(4) Resident and nonresident individuals and corporations which are partners in a partnership or shareholders in an S corporation ***doing***[~~carrying on~~] business only in ***this state***[~~Kentucky~~] are taxable on all items of income gain, loss, deduction or credit determined under subsection (2) of this section and reported as their distributive share from the partnership or S corporation.

(5) Nonresident individuals and corporations which are partners in a partnership or shareholders in an S corporation ***doing***[~~which does~~] business within and without ***this state***[~~Kentucky~~] are taxable on their proportionate share of the distributive income passed through the partnership or S corporation attributable to business done in ***this state***[~~Kentucky~~].

[~~(a)~~]Business done in ***this state***[~~Kentucky~~] is determined by ***a fraction, the numerator of which is the property factor, plus the payroll factor, plus the sales factor, and the denominator of which is four (4), all determined under KRS 141.120(8). The property factor shall represent twenty-five percent (25%) of the fraction, the payroll factor shall represent twenty-five percent (25%) of the fraction, and the sales factor shall represent fifty percent (50%) of the fraction***[~~the ratio of gross receipts from sales to purchasers or customers in Kentucky or services performed in Kentucky to the total gross receipts from sales or service everywhere~~].

(6) Resident partners, S corporation shareholders and corporations which are partners in a multistate partnership or shareholders in a multistate S corporation are taxable on one hundred percent (100%) of the distributive share of income, gains, losses, deductions or credits.

(7) Resident individuals who are partners in a partnership or shareholders in an S corporation which does not ***do***[~~carry on~~] business in ***this state***[~~Kentucky~~] are subject to tax under KRS 141.020 on federal net income, gain, deduction, loss or credit passed through the partnership or S corporation.

[~~(8) S corporation for purpose of this section means a corporation which has elected for federal tax purposes to be taxed as an S corporation. An election for federal tax purposes is a binding election for Kentucky tax purposes.~~]

Section 8. KRS 141.340 is amended to read as follows:

(1) An employer shall be liable for the payment of the tax required to be deducted and withheld under KRS 141.310 and 141.315, and shall not be liable to any person for the amount of any such payment.

(2) The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any corporation subject to KRS 141.310 or 141.315 shall be personally and individually liable, both jointly and severally, for any tax required to be withheld under this chapter from wages paid to one (1) or more employees of any such corporation, and neither the corporate dissolution or withdrawal of the corporation from the state nor the cessation of holding any such corporate office shall discharge the foregoing liability of any such person; provided that the personal and individual liability shall apply ***only*** to each or every person holding such corporate office ***who had authority in the management of the business or financial affairs of the corporation*** at the time such tax becomes or became obligated.

(3) Notwithstanding any other provision of law, the managers or equivalent officeholders of a limited liability company and the partners or equivalent officeholders of a registered limited liability partnership shall be personally and individually liable, both jointly and severally, for any tax required to be withheld by the company or partnership under this chapter from wages paid to any employee. Liability shall attach only to every manager, partner, or officeholder who had authority to collect, account for, or pay over any tax imposed by this chapter at the time the taxes become or became due. Dissolution, withdrawal of the company or partnership from the state, or the cessation of holding any office or position shall not discharge the liability of any person.

(4) "Tax" in this section shall include tax interest under KRS 131.183, all applicable penalties imposed under this chapter, and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.

Section 9. KRS 142.357 is amended to read as follows:

(1) Notwithstanding any other provisions of KRS 142.301 to 142.359, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of KRS 142.301 to 142.359 shall be personally and individually liable jointly and severally, for the taxes imposed under KRS 142.303, 142.307, 142.309, and 142.311. Neither the corporate dissolution or withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the liability imposed by this section. The personal and individual liability shall apply to each and every person holding a corporate office at the time the taxes become or became due. No person will be personally and individually liable pursuant to this section if that person did not have authority in the management of the business or financial affairs of the corporation at the time the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311 become or became due.

(2) Notwithstanding any other provision of law, the managers or equivalent officeholders of a limited liability company and the partners or equivalent officeholders of a registered limited liability partnership shall be personally and individually liable, both jointly and severally, for the taxes imposed on the company or partnership by KRS 142.301 to 142.359. Liability shall attach only to every manager, partner, or officeholder who had authority to collect, account for, or pay over any tax imposed by KRS 142.301 to 142.359 at the time the taxes become or became due. Dissolution,

withdrawal of the company or partnership from the state, or the cessation of holding any office or position shall not discharge the liability of any person.

(3) "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.010(6) ***and 131.183,*** and all applicable penalties and fees imposed under ***this chapter***[~~the provisions of KRS 142.301 to 142.359~~] and ***under*** KRS 131.180, 131.440, and 131.990.

Section 10. KRS 143.085 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter to the contrary, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of this chapter shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter, and neither the corporate dissolution nor withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the foregoing liability of any person. The personal and individual liability shall apply to each and every person holding corporate office at the time the taxes become or became due. No person will be personally and individually liable pursuant to this section who had no authority in the management of the business or financial affairs of the corporation at the time that the taxes imposed by this chapter become or became due.

(2) Notwithstanding any other provision of law, the managers or equivalent officeholders of a limited liability company and the partners or equivalent officeholders of a registered limited liability partnership shall be personally and individually liable, both jointly and severally, for the taxes imposed on the company or partnership by KRS Chapter 143. Liability shall attach only to every manager, partner, or officeholder who had authority to collect, account for, or pay over any tax imposed by KRS Chapter 143 at the time the taxes become or became due. Dissolution, withdrawal of the company or partnership from the state, or the cessation of holding any office or position shall not discharge the liability of any person.

(3) ***"***Taxes***"*** as used in this section include interest accrued at the rate provided by KRS ***131.183 and*** 143.080,[~~ and~~] all applicable penalties imposed under this chapter, and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.

Section 11. KRS 275.150 is amended to read as follows:

(1) Except as provided in subsection (2) of this section***, in Sections 3, 8, 9, and 10 of this Act,*** or as otherwise specifically set forth in other sections in this chapter, no member, manager, employee, or agent of a limited liability company, including a professional limited liability company, shall be personally liable by reason of being a member, manager, employee, or agent of the limited liability company, under a judgment, decree, or order of a court, agency, or tribunal of any type, or in any other manner, in this or any other state, or on any other basis, for a debt, obligation, or liability of the limited liability company, whether arising in contract, tort, or otherwise. The status of a person as a member, manager, employee, or agent of a limited liability company, including a professional limited liability company, shall not subject the person to personal liability for the acts or omissions, including any negligence, wrongful act, or actionable misconduct, of any other member, manager, agent, or employee of the limited liability company.

(2) Notwithstanding the provisions of subsection (1) of this section, under a written operating agreement or under another written agreement, a member or manager may agree to be obligated personally for any of the debts, obligations, and liabilities of the limited liability company.

Section 12. KRS 362.220 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, all partners shall be liable:

(a) Jointly and severally for everything chargeable to the partnership under KRS 362.210 and 362.215; and

(b) Jointly for all other debts and obligations of the partnership; but any partner may enter into a separate obligation to perform a partnership contract.

(2) Subject to subsection (3) of this section ***and to Sections 3, 8, 9, and 10 of this Act,*** and subject to any agreement among the partners, a partner in a registered limited liability partnership shall not be liable directly or indirectly, including by way of indemnification, contribution, assessment or otherwise, for debts, obligations, and liabilities of or chargeable to the partnership, whether arising in tort, contract, or otherwise, arising from negligence, malpractice, wrongful acts, or misconduct committed while the partnership is a registered limited liability partnership and in the course of the partnership business by another partner or an employee, agent, or representative of the partnership.

(3) Subsection (2) of this section shall not affect the liability of a partner in a registered limited liability partnership for his own negligence, wrongful acts, or misconduct.

Section 13. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of ***thirteen and six-tenths cents ($0.136)***[~~thirty-one and one-half cents ($0.315)~~] upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation ***on or after January 1, 2002***, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 directed to be assessed for taxation, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all tobacco

directed to be assessed for taxation, and twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of all money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81, fifteen cents ($0.15) upon machinery actually engaged in manufacturing, fifteen cents ($0.15) upon commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents ($0.15) upon property which has been certified as a pollution control facility as defined in KRS 224.01-300, one-tenth of one cent ($0.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five cents ($0.45) upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed, except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.300, 136.320, and other sections providing a different tax rate for particular property.

(2) (a) An annual ad valorem tax for state purposes of one and one-half cents ($0.015) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when the intangible personal properties have not acquired a taxable situs without this state:

1. Accounts receivable, notes, bonds, credits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;
2. Patents, trademarks, copyrights, and licensing or royalty agreements relating to these;
3. Notes, bonds, accounts receivable, and all other intercompany intangible personal property due from any affiliated company; and
4. Tobacco base allotments.

(b) An annual ad valorem tax for state purposes of one-thousandth of one percent (0.001%) shall be paid upon money in hand, notes, bonds, accounts, credits, and other intangible assets, whether by mortgage, pledge, or otherwise, or unsecured, of financial institutions, as defined in KRS 136.500.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school, or other taxing district on the intangible properties, or directly or indirectly against the owner.

(5) Thirty cents ($0.30) of the thirty-one and one-half cents ($0.315) state tax rate on real property and thirty cents ($0.30) of the forty-five cents ($0.45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents ($0.30), as certified by the Department of Education, the direct payments shall be reduced proportionately.

(6)[~~The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%). In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.~~

~~(7) By July 1 each year, the cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (5) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the cabinet shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the cabinet, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the cabinet, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.~~

~~(8) If the tax rate set by the cabinet as provided in subsection (6) of this section produces more than a four percent (4%) increase in real property tax revenues, the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.~~

~~(9) The provisions of subsection (6) of this section notwithstanding, the assessed value of unmined coal certified by the cabinet after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real~~

~~property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (6) of this section.]~~ The ***state real property tax***~~[calculated]~~ rate shall~~[, however,]~~ be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 to 146.570, except that four hundred thousand dollars ($400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Kentucky Coal Council for the purpose of public education of coal-related issues.

(7)~~[(10)]~~ Effective on or after January 1, 1990, an ad valorem tax for state purposes of five cents ($0.05) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business, which, on or after January 1, 1999, includes machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement; and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business.

(8)~~[(11)]~~ An ad valorem tax for state purposes of ten cents ($0.10) per one hundred dollars ($100) of assessed value shall be paid on the operating property of railroads or railway companies that operate solely within the Commonwealth.

(9)~~[(12)]~~ An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on aircraft not used in the business of transporting persons or property for compensation or hire.

(10)~~[(13)]~~ An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes.

Section 14. KRS 134.810 is amended to read as follows:

(1) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes shall be due and payable on or before the earlier of the last day of the month in which registration renewal is required by law for a motor vehicle renewed or the last day of the month in which a vehicle is transferred.

(2) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the earlier of the end of the month in which registration renewal is required by law or the last day of the second calendar month following the month in which a vehicle was transferred.

(3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due. However, this penalty shall be waived if the tax bill is paid within five (5) days of the tax bill being declared delinquent. Any taxes which are not paid within thirty (30) days of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on said taxes and penalty from the date of delinquency. A penalty or interest shall not accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.

(4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the owner of record on January 1 of any year shall be liable for the taxes on the motor vehicle, except as hereinafter provided.

(5) If an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, city, urban-county government, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration shall be due and payable on or before the last day of the first birth month following the assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.

(6) For purposes of the state ad valorem tax only, all motor vehicles held for sale by a licensed Kentucky dealer and all motor vehicles with a salvage title held by an insurance company on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS 132.485 but shall be subject to ad valorem tax as goods held for sale in the regular course of business under the provisions of KRS 132.020***(7)***~~[(10)]~~ and 132.220.

(7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor vehicle becomes delinquent, the state and each county, city, urban-county government, or other taxing district shall have a lien on all motor vehicles owned or acquired by the person who owned the motor vehicle at the time the tax liability arose. A lien for delinquent ad valorem taxes shall not attach to any motor vehicle transferred while the taxes are due on that vehicle. For the purpose of delinquent ad valorem taxes on leased vehicles only, a lien on a leased vehicle shall not be attached to another vehicle owned by the lessor.

(8) The lien required by subsection (7) of this section shall be filed and released by the automatic entry of appropriate information in the AVIS database. For the filing and release of each lien or set of liens arising from motor vehicle ad valorem property tax delinquency, a fee of one dollar ($1) shall be added to the delinquent tax account. The fee shall be collected and retained by the county clerk who collects the delinquent tax.

(9) The implementation of the automated lien system provided in this section shall not affect the manner in which commercial liens are recorded or released.

Section 15. KRS 141.016 is amended to read as follows:

(1) ***For taxable years beginning before January 1, 2003:***

(a) If the federal adjusted gross income of husband or wife is entered on a separate federal return, their Kentucky adjusted gross incomes may be entered on their separate Kentucky tax returns or their joint Kentucky tax return as they so elect.

(b)[~~(2)~~] If the federal adjusted gross income of husband and wife is entered on a joint federal return, or if neither files a federal return:

1.[~~(a)~~] Their adjusted gross income shall be entered on their joint Kentucky tax return; or

2.[~~(b)~~] Separate adjusted gross incomes may be entered on their separate Kentucky tax returns if they so elect.

(c)[~~(3)~~] Where husband and wife have not separately reported and claimed items of income and adjustments of income for federal income tax purposes, and have not elected to file a joint Kentucky income tax return, such items allowable for Kentucky income tax purposes shall be allocated and adjusted as follows:

1.[~~(a)~~] Income shall be allocated to the spouse who earned the income or with respect to whose property the income is attributable;

2.[~~(b)~~] Allowable deductions with respect to trade, business, or production of income shall be allocated to the spouse to whom attributable.

(2) For taxable years beginning on or after January 1, 2003, the filing status that is applicable under Internal Revenue Code Section 1 shall be the filing status for Kentucky income tax returns. If a federal return is not filed, then the filing status shall be the one that would have been applicable under Internal Revenue Code Section 1.

Section 16. KRS 141.020 is amended to read as follows:

(1) An annual tax shall be paid for each taxable year by every resident individual of this state upon his entire net income as defined in this chapter.[~~ The tax shall be determined by applying the rates in subsection (2) to net income and subtracting allowable tax credits provided in subsection (3).~~]

(2) ***(a) For tax years beginning before January 1, 2003, the tax shall be determined by applying*** the following rates[~~ shall be applied~~] to net income ***and subtracting the tax credits allowed in subsection (3) of this section***:

1.[~~(a)~~] Two percent (2%) of the amount of net income not exceeding three thousand dollars ($3,000);

2.[~~(b)~~] Three percent (3%) of the amount of net income in excess of three thousand dollars ($3,000) but not in excess of four thousand dollars ($4,000);

3.[~~(c)~~] Four percent (4%) of the amount of net income in excess of four thousand dollars ($4,000) but not in excess of five thousand dollars ($5,000);

4.[~~(d)~~] Five percent (5%) of the amount of net income in excess of five thousand dollars ($5,000) but not in excess of eight thousand dollars ($8,000); ***and***

5.[~~(e)~~] Six percent (6%) of the amount of net income in excess of eight thousand dollars ($8,000).

(b) For tax years beginning on or after January 1, 2003, the tax rate shall be six percent (6%) of net income.

(3) The following tax credits, when applicable, shall be deducted from the result obtained under subsection (2)***(a)*** to arrive at the annual tax:

(a) Twenty dollars ($20) for an unmarried individual;

(b) Twenty dollars ($20) for a married individual filing a separate return and an additional twenty dollars ($20) for the spouse of taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or forty dollars ($40) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code;

(c) Twenty dollars ($20) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his spouse;

(d) An additional forty dollars ($40) credit if the taxpayer has attained the age of sixty-five (65) before the close of the taxable year;

(e) An additional forty dollars ($40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse has attained the age of sixty-five (65) before the close of the taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;

(f) An additional forty dollars ($40) credit if the taxpayer is blind at the close of the taxable year;

(g) An additional forty dollars ($40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse is blind, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;

(h) In the case of nonresidents, the tax credits allowable under this subsection shall be that proportion of those permitted therein that is represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by

KRS 141.010(10), without the adjustments contained in (f) and (g) of that subsection, to his adjusted gross income as defined in Section 62 of the Internal Revenue Code. However, in the case of a married nonresident taxpayer with income from Kentucky sources, whose spouse has no income from Kentucky sources, the taxpayer shall determine allowable tax credit(s) by either:

1. The method contained above applied to his tax credit(s), excluding credits for a spouse and dependents, or

2. Prorating his tax credit(s) plus the tax credits for his spouse and dependents by the ratio of his Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in (f) and (g) of that subsection, to the total joint federal adjusted gross income of the taxpayer and his spouse;

(i) In the case of an individual who becomes a resident of Kentucky during the taxable year, the tax credits allowable under this subsection shall be that portion of those permitted therein that is represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by subsection (10) of KRS 141.010, without the adjustments contained in paragraphs (f) and (g) of that subsection, to his adjusted gross income as defined in Section 62 of the Internal Revenue Code;

(j) In the case of a fiduciary, other than an estate, the allowable tax credit shall be two dollars ($2);

(k) In the case of an estate, the allowable tax credit shall be twenty dollars ($20);

(l) An additional twenty dollars ($20) credit if the taxpayer is a member of the Kentucky National Guard at the close of the taxable year.

(4) An annual tax shall be paid for each taxable year as specified in this section upon the entire net income except as[~~herein~~] provided ***in this subsection***, from all tangible property located in this state, from all intangible property that has acquired a business situs in this state, and from business, trade, profession, occupation, or other activities carried on in this state, by natural persons not residents of this state. A nonresident individual shall be taxable only upon the amount of income received by him from labor performed, business done, or from other activities in this state, from tangible property located in this state, and from intangible property which has acquired a business situs in this state; provided, however, that the situs of intangible personal property shall be at the residence of the real or beneficial owner and not at the residence of a trustee having custody or possession thereof. The remainder of the income received by such nonresident shall be deemed nontaxable by this state.

(5) Subject to the provisions of KRS 141.081, any individual may elect to pay the annual tax imposed by KRS 141.023 in lieu of the tax levied under this section.

(6) An individual who becomes a resident of Kentucky during the taxable year is subject to taxation as prescribed in subsection (4) of this section prior to establishing such residence and as prescribed in subsection (1) of this section following the establishment of such residence.

(7) An individual who becomes a nonresident of Kentucky during the taxable year is subject to taxation, as prescribed in subsection (1) of this section, during that portion of the taxable year that he is a resident and, as prescribed in subsection (4) of this section, during that portion of the taxable year when he is a nonresident.

(8) For taxable years beginning on or after January 1, 2003, nonresident individuals, and part-year residents as identified in subsections (6) and (7) of this section, shall compute the tax imposed by this chapter in the same manner as resident individuals, as provided in subsection (2)(b) of this section and Section 17 of this Act, on their entire income from all sources within and without this state and shall apportion the amount so computed by the following ratio:

(a) Federal adjusted gross income, exclusive of all state income tax refunds, from sources within this state; over

(b) Federal adjusted gross income, exclusive of all state income tax refunds, from sources both within and without this state.

Section 17. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020 or 141.040, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3) ***for taxable years beginning before January 1, 2003***;

(b) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

(c) The health insurance credit permitted by KRS 141.062;

(d) The tax paid to other states credit permitted by KRS 141.070;

(e) The credit for hiring the unemployed permitted by KRS 141.065;

(f) The recycling or composting equipment credit permitted by KRS 141.390;

(g) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263;

(h) The low income credit permitted by KRS 141.066 ***for taxable years beginning before January 1, 2003***;

(i) The household and dependent care credit permitted by KRS 141.067; and

(j) The coal incentive credit permitted under KRS 141.0405.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350; and

(b) The individual estimated tax payment credit permitted by KRS 141.305.

(3) The nonrefundable credits against the tax imposed by KRS 141.040 shall be taken in the following order:

(a) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

(b) The health insurance credit permitted by KRS 141.062;

(c) The unemployment credit permitted by KRS 141.065;

(d) The recycling or composting equipment credit permitted by KRS 141.390;

(e) The coal conversion credit permitted by KRS 141.041;

(f) The enterprise zone credit permitted by KRS 154.45-090;

(g) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263; and

(h) The coal incentive credit permitted under KRS 141.0405.

(4) After the application of the nonrefundable credits in subsection (3) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the tax imposed by KRS 141.040.

Section 18. KRS 141.066 is amended to read as follows:

(1) ***For taxable years beginning before January 1, 2003,*** a resident individual whose adjusted gross income does not exceed the amounts set out in subsection (3) of this section, shall be eligible for a nonrefundable "low income" tax credit. The credit shall be applied against the taxpayer's tax liability calculated under KRS 141.020, and shall be taken in the order established by KRS 141.0205.

(2) For a husband and wife filing jointly, the "low income" tax credit shall be computed on the basis of their joint adjusted gross income and shall be deductible from their joint tax liability. For a husband and wife living together, whether filing separate returns or separately on a combined return, the "low income" credit shall be computed on the basis of their combined adjusted gross income, except that a separately computed adjusted gross income of less than zero shall be treated as zero, and shall be deductible from their combined tax liability.

(3) The "low income" tax credit shall be computed as follows:

AMOUNT OF ADJUSTED GROSS INCOME	PERCENT OF TAX LIABILITY ALLOWED AS LOW INCOME TAX CREDIT
not over $5,000	100%
over $ 5,000 but not over $10,000	50%
over $10,000 but not over $15,000	25%
over $15,000 but not over $20,000	15%
over $20,000 but not over $25,000	5%
over $25,000	-0-

Section 19. KRS 141.081 is amended to read as follows:

(1) ***For taxable years beginning before January 1, 2003,*** an individual, at his election, may deduct from his adjusted gross income a standard deduction of:

(a) Six hundred and fifty dollars ($650) for taxable years beginning before December 31, 1996;

(b) Nine hundred dollars ($900) for taxable years beginning after December 31, 1996, but before December 31, 1997;

(c) One thousand two hundred dollars ($1,200) for taxable years beginning after December 31, 1997, but before December 31, 1998;

(d) One thousand five hundred dollars ($1,500) for taxable years beginning after December 31, 1998, but before December 31, 1999;

(e) One thousand seven hundred dollars ($1,700) for taxable years beginning after December 31, 1999, but before December 31, 2000; and

(f) The amount calculated under subsection (2) of this section for taxable years beginning after December 31, 2000***, but before January 1, 2003***.

(2) (a) For taxable years beginning after December 31, 2000, ***but before January 1, 2003***~~[and each taxable year thereafter]~~, the standard deduction for the current taxable year shall be equal to the standard deduction for the prior taxable year multiplied by the greater of:

1. The average of the monthly CPI-U figures for the twelve (12) consecutive months ending in and including

the July six (6) months prior to the January beginning the current tax year, divided by the average of the monthly CPI-U figures for the twelve (12) months ending in and including the July eighteen (18) months prior to the January beginning the current tax year; or

2. One (1).

(b) As used in this subsection, a tax year shall be the twelve (12) month period beginning in January and ending in December.

(c) As used in this subsection, "CPI-U" means the nonseasonally adjusted United States city average of the Consumer Price Index for all urban consumers for all items, as released by the federal Bureau of Labor Statistics.

(3) The standard deduction provided for in ***subsection (1) or (2) of*** this section shall be in lieu of all deductions and shall not be allowed in the case of a taxable year of less than twelve (12) months on account of a change in the accounting period or in the case of a fiduciary.

(4) In the case of a husband and wife living together, the standard deduction provided for in this ***subsection (1) or (2) of this*** section shall not be allowed to either if the net income of one (1) of the spouses is determined without regard to the standard deduction. The determination of marital status shall be made in the manner prescribed in Section 153 of the Internal Revenue Code.

(5) For taxable years beginning on or after January 1, 2003, a taxpayer other than a fiduciary may elect to deduct from adjusted gross income the standard deduction, as of December 31, 2001, for the appropriate filing status under Internal Revenue Code Section 63(c).

Section 20. KRS 141.180 is amended to read as follows:

(1) ***For taxable years beginning before January 1, 2003,*** every individual, except as otherwise provided in ***subsections (2) to (6) of*** this section, having for the taxable year an adjusted gross income which exceeds five thousand dollars ($5,000), if single, or if married and not living with husband or wife and every married individual living with husband or wife whose adjusted gross income combined with the adjusted gross income of his or her spouse exceeds five thousand dollars ($5,000) shall make to the cabinet a return stating specifically the items which he claims as deductions and tax credits allowed by this chapter.

(2) ***For taxable years beginning before January 1, 2003,*** any individual who is blind or who has attained the age of sixty-five (65) before the close of his taxable year shall be required to make a return only if he has for the taxable year an adjusted gross income which exceeds five thousand dollars ($5,000). Every married individual living with husband or wife shall, if both spouses have attained the age of sixty-five (65), be required to make a return if the combined adjusted gross income of both spouses exceeds five thousand four hundred dollars ($5,400). If the individual is unable to make his own return, the return shall be made by a duly authorized agent.

(3) ***For taxable years beginning before January 1, 2003,*** any individual, who is both sixty-five (65) or over and blind before the close of the taxable year, shall make a return if he has for the taxable year an adjusted gross income which exceeds five thousand dollars ($5,000).

(4) ***For taxable years beginning before January 1, 2003,*** notwithstanding any other provision of this section, an individual, having for the taxable year gross income from self-employment of five thousand dollars ($5,000) or more, shall make a return.

(5) ***For taxable years beginning before January 1, 2003,*** any nonresident individual with gross income from Kentucky sources and a total gross income of five thousand dollars ($5,000) or over shall make a return.

(6) ***For taxable years beginning before January 1, 2003,*** a husband and wife not living together shall make separate returns. A husband and wife living together may make a joint return, or may make separate returns. However, in the event separate returns are made, neither spouse shall report income nor claim deductions properly attributable to the other.

(7) Notwithstanding any other provisions of KRS Chapters 131 and 141, a husband or a wife who is jointly and severally liable for taxes levied under KRS 141.020, applicable penalties, and interest shall be relieved of liability for tax, interest, penalties, and other amounts if:

(a) The spouse has been relieved of liability for federal income tax, interest, penalties, and other amounts for the same taxable year by the Internal Revenue Service under Section 6015 of the Internal Revenue Code; or

(b) It is shown that the spouse would have qualified for relief under the provisions of Section 6015 of the Internal Revenue Code for the same taxable year if there had been a federal income tax liability.

(8) Any relief granted pursuant to paragraphs (a) and (b) of subsection (7) of this section shall not result in a tax overpayment to the spouse requesting relief.

(9) Each individual return shall be verified by a written declaration that it is made under the penalties of perjury.

(10) For taxable years beginning on or after January 1, 2003, every individual having an adjusted gross income that exceeds the amount prescribed by an administrative regulation promulgated by the cabinet for the filing status claimed under subsection (2) of Section 15 of this Act shall make to the cabinet a return stating specifically the items claimed as income, deductions, and tax credits allowed by this chapter. Any individual who is not required to file a federal individual income tax return shall not be required to file a Kentucky individual income tax return.

Section 21. KRS 141.300 is amended to read as follows:

(1) Every individual shall, at the time prescribed in subsection (3), make a declaration of his estimated tax for the taxable year if his gross income from sources other than wages upon which Kentucky income tax will be withheld can reasonably be expected to ***result in***[~~exceed five thousand dollars ($5,000) for the taxable year and his gross income or adjusted gross income can reasonably be expected to be an amount not less than the amount for which a return is required under KRS 141.180. No declaration of estimated tax shall be required if the~~] estimated tax liability ***of***[~~can reasonably be expected to be~~] five hundred dollars ($500) or ***more***[~~less~~].

(2) In the declaration required under subsection (1), the individual shall state:

(a) The amount which he estimates as the amount of tax under KRS 141.020 for the taxable year;

(b) The amount which he estimates as the credits for the taxable year under KRS 141.310, 141.315, and 141.065;

(c) The excess of the amount estimated under paragraph (a) over the amount estimated under paragraph (b), which excess for purposes of this chapter shall be considered the estimated tax for the taxable year; and

(d) Other information as may be prescribed in administrative regulations promulgated by the cabinet.

(3) The declaration required under subsection (1) shall be filed with the cabinet on or before April 15 of the taxable year, except that if the requirements of subsection (1) are first met:

(a) After April 1 and before June 2 of the taxable year, the declaration shall be filed on or before June 15 of the taxable year; or

(b) After June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15 of the taxable year; or

(c) After September 1 of the taxable year, the declaration shall be filed on or before January 15 of the succeeding taxable year.

(4) An individual may amend a declaration filed during the taxable year under subsection (3) pursuant to administrative regulations prescribed by the cabinet.

(5) If, on or before January 31 of the succeeding taxable year an individual files a return for the taxable year for which the declaration is required and pays in full the amount computed on the return as payable, then, under administrative regulations prescribed by the cabinet:

(a) If the declaration is not required to be filed during the taxable year, but is required to be filed on or before January 15 of the taxable year, the return shall, for the purposes of this section, be considered as the declaration; and

(b) If the tax shown on the return, reduced by the credits under KRS 141.350, is greater than the estimated tax shown in a declaration previously made or, in the last amendment thereof, the return shall, for the purposes of this section, be considered as the amendment of the declaration permitted by subsection (4) to be filed on or before January 15 of the taxable year.

(6) The cabinet shall promulgate administrative regulations governing reasonable extensions of time for filing declarations and paying the estimated tax. Except in the case of an individual who is abroad, no extension shall be for more than six (6) months.

(7) If an individual is unable to make his own declaration, the declaration shall be made by a duly authorized agent or by the guardian, conservator, or other person charged with the care of the person or property of the individual.

(8) For the purposes of KRS 131.190, a declaration of estimated tax shall be held and considered a return of income under this chapter.

Section 22. KRS 141.325 is amended to read as follows:

(1) An employee receiving wages shall on any day be entitled to the following withholding exemptions:

(a) ***For taxable years beginning before January 1, 2003,*** one (1) exemption for himself;

(b) ***For taxable years beginning before January 1, 2003,*** one (1) exemption for each dependent for whom he would be entitled to a tax credit under the provisions of KRS 141.020(3)(c);

(c) If the employee is married, the exemption to which his spouse is entitled, or would be entitled if such spouse were an employee, under subparagraph (a) of this subsection, but only if such spouse does not have in effect a withholding exemption certificate claiming such exemption;

(d) ***For taxable years beginning before January 1, 2003,***[~~Such other~~] withholding exemptions as the cabinet may prescribe by regulation.

(2) Every employee shall, on or before July 1, 1954, or before the date of commencement of employment, whichever is later, furnish his employer with a signed withholding exemption certificate relating to the number of withholding exemptions which he claims, which in no event shall exceed the number to which he is entitled.

(3) Withholding exemption certificates shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished; provided, that certificates furnished before July 1, 1954, shall be considered as furnished on that date.

(4) A withholding exemption certificate which takes effect under this section shall continue in effect with respect to the employer until another such certificate takes effect under this section. If a withholding exemption certificate is furnished to take the place of an existing certificate, the employer, at his option, may continue the old certificate in force with respect to all wages paid on or before the first status determination date, January 1 or July 1, which occurs at least thirty (30) days after the date on which such new certificate is furnished.

(5) If, on any day during the calendar year, the number of withholding exemptions to which the employee may reasonably be expected to be entitled at the beginning of his next taxable year is different from the number to which the employee is entitled on such day, the employee shall in such cases and at such time as the cabinet may prescribe, furnish the employer with a withholding exemption certificate relating to the number of exemptions which he claims with respect to such next taxable year, which shall in no event exceed the number to which he may reasonably be expected to be so entitled. Exemption certificates issued pursuant to this subsection shall not take effect with respect to any payment of wages made in the calendar year in which the certificate is furnished.

(6) If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is less than the number of withholding exemptions claimed by the employee on the withholding exemption certificate then in effect with respect to him, the employee shall, within ten (10) days thereafter, furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day. If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is greater than the number of withholding exemptions claimed, the employee may furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day.

(7) Withholding exemption certificates shall be in such form and contain such information as the cabinet may by regulations prescribe.

Section 23. The following KRS section is repealed:

134.295 Supplementation of sheriff's commission.

Section 24. Sections 1, 2, 5, 6, and 7 of this Act shall apply for taxable years beginning after December 31, 2001. Section 4 applies to sales made after July 31, 2002.

HB 864, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 13 of this Act:

(1) "Cabinet" means the Revenue Cabinet;

(2) "Merchant plant" means an electricity generating plant, together with associated facilities, that is capable of operating at a capacity of ten megawatts (10MW) or more, and sells the electricity that it produces at wholesale, at rates and charges not regulated by the Public Service Commission. "Merchant plant" does not include:

- ***(a) An electricity generating plant and associated facilities directly owned or controlled by a utility or affiliate as defined in KRS Chapter 278;***
- ***(b) An electricity generating plant which sells at least fifty percent (50%) of the electricity generated at wholesale to:***
  - ***1. A utility as defined in KRS 278.010(3);***
  - ***2. A generation and transmission cooperative as defined in KRS 278.010(9); or***
  - ***3. A distribution cooperative as defined in KRS 278.010(10).***
- ***(c) A city or municipal generation plant;***
- ***(d) A generation and transmission cooperative as defined in KRS 278.010(9);***
- ***(e) A self-generator of electricity as defined in this section; or***
- ***(f) An agency or instrumentality of the United States Government.***

(3) "Person" means any individual, firm, partnership, joint venture, association, corporation, company, joint stock association, limited liability company, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, government unit or agency, or any other group or combination acting as a unit and the legal successor thereof.

(4) "Self-generator of electricity" means a person, including a co-generation plant, who generates, by means of an on-site facility wholly owned by or leased in its entirety to such person, electricity for his own consumption.

SECTION 2. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

A tax is hereby imposed at the rate of one-tenth of one cent ($0.001) per kilowatt hour of electricity generated by a merchant plant located in Kentucky and the tax shall not be passed on to the customer as a separate charge or otherwise.

SECTION 3. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

Every merchant power plant subject to the tax imposed by Section 2 of this Act shall register with the cabinet by submitting a registration application in the form prescribed by the cabinet. The registration application shall be signed by the owner if a natural person; in the case of an association, limited liability company or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.

SECTION 4. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) The tax imposed in Section 2 of this Act shall be due and payable to the cabinet on a calendar quarter basis and shall be remitted on or before the twentieth calendar day following the close of the preceding calendar quarter.

(2) On or before the twentieth calendar day following the close of the preceding calendar quarter, a return for the preceding calendar quarter shall be filed with the cabinet on the form prescribed by the cabinet, together with payment of any tax due.

SECTION 5. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) As soon as practicable after each return filed under Section 4 of this Act is received, the cabinet shall examine it. If the amount of tax computed by the cabinet is greater than the amount returned by the taxpayer, the excess shall be assessed by the cabinet within four (4) years from the later of the date the return was filed or due. Except in the case of a failure to file a return or a fraudulent return, the excess may be assessed at any time.

(2) Any merchant power plant aggrieved by any action of the cabinet may request a review and shall have the rights of appeal as set forth in KRS Chapter 131.

SECTION 6. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

In making a determination of tax liability, the cabinet may offset overpayments for a period or periods, together with interest on the overpayments, against any underpayments for another period or periods, against penalties, and against the interest on the underpayments.

SECTION 7. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) Every merchant power plant subject to the tax imposed in Section 2 of this Act shall keep records, receipts, invoices, and other pertinent papers in such form as the cabinet may require.

(2) Every merchant plant who files the returns required under Section 4 of this Act shall keep records for not less than five (5) years from the making of the records unless the cabinet in writing authorizes their destruction at an earlier date.

SECTION 8. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

In every case, any tax due under Section 2 of this Act that is not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.183 from the date due until the date of payment.

SECTION 9. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) The tax paid under Section 4 of this Act shall be refunded or credited in the manner provided in KRS 134.580.

(2) A claim for refund or credit shall be made on a form prescribed by the cabinet and shall contain information that the cabinet requires.

SECTION 10. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

The cabinet shall administer the provisions of Sections 1 to 13 of this Act and shall have all the powers, rights, duties, and authority with respect to the assessment, collection, refunding, and administration of taxes conferred generally upon the cabinet by the Kentucky Revised Statutes including KRS Chapters 131, 134, and 135.

SECTION 11. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) Whenever it is deemed necessary to insure compliance with the provisions of Sections 1 to 13 of this Act, the cabinet may require any person subject to the tax imposed by Sections 1 to 13 of this Act to place security with it. The amount of the security shall be fixed by the cabinet but shall not be greater than three (3) times the estimated average quarterly liability of the merchant plant. This limitation shall apply regardless of the type of security placed with the cabinet.

(2) The amount of the security may be increased or decreased by the cabinet, subject to the limitations provided in subsection (1) of this section.

(3) (a) If necessary, the cabinet may sell the security at public auction in order to recover any tax, penalty, or interest due. However, security in the form of a bearer bond issued by the United States or any state or local governmental unit which has a prevailing market price may be sold by the cabinet at a private sale at a price not lower than the prevailing market price.

(b) 1. The cabinet shall provide notice by certified mail, sent to the last known address as reflected in the records of the cabinet, or by delivery, to the person who placed the security with the cabinet of the date, time, and place of the sale.

2. Delivery means mailing the notice to the person it is addressed to, leaving the notice at his place of business with the person in charge of the place of business, or, if there is no one in charge, leaving the notice at a conspicuous place at the place of business. If the place of business is closed, or the person to be served has no place of business, leaving it at his home, with a person of suitable age and discretion

residing in the home. Notice by certified mail must be postmarked no later than ten (10) days prior to the sale. Notice by delivery must be given no later than ten (10) days prior to the sale.

(c) Any amount in excess of the amount due the cabinet after the sale shall be returned to the person placing the security.

(4) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of a merchant power plant's business until the security is obtained. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction over the merchant plant.

SECTION 12. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provisions to the contrary, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of Section 2 of this Act shall be personally and individually liable, both jointly and severally, for the tax imposed under Section 2 of this Act. Corporate dissolution, withdrawal of the corporation from the state, or the cessation of holding any corporate office shall not discharge the liability imposed upon any person. The personal and individual liability shall apply to each and every person holding a corporate office at the time the tax becomes or became due. No person shall be personally and individually liable under this section who had no authority to collect, truthfully account for, or pay over any tax imposed by Section 2 of this Act at the time the tax imposed becomes or became due. "Tax" as used in this subsection shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under the provisions of this chapter, all applicable penalties imposed under the provisions of Section 13 of this Act, and KRS 131.990.

(2) Notwithstanding any other provision of this chapter, KRS 275.150, or KRS 362.220(2) to the contrary, the managers of a limited liability company and the partners of a registered limited liability partnership or any other person holding any equivalent office of a limited liability company or a registered limited liability partnership subject to the provisions of Section 2 of this Act shall be personally and individually liable, both jointly and severally, for the taxes imposed under Section 2 of this Act. Dissolution, withdrawal of the limited liability company or registered limited liability partnership from the state, or the cessation of holding any office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every manager of a limited liability company and partner of a registered limited liability partnership at the time the tax becomes or became due. No person shall be personally and individually liable under this subsection who had no authority to collect, truthfully account for, or pay over any tax imposed by Section 2 of this Act at the time the tax becomes or became due. "Tax" as used in this subsection shall include interest accrued at the rate provided under KRS 131.183, all applicable penalties imposed under the provisions of this chapter, and all applicable penalties imposed under the provisions of Section 13 of this Act and 131.990.

SECTION 13. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

Penalties for violating Sections 1 to 13 of this Act shall be imposed and assessed in accordance with the provisions of KRS 131.180.

Section 14. KRS 141.0405 is amended to read as follows:

(1) There shall be allowed a nonrefundable credit against taxes imposed by the Commonwealth on any taxpayer that:

(a) 1. Is an electric power company as defined in KRS Chapter 136; or

2. Is an entity that owns or operates a coal-fired electric generation plant;

(b) Remits tax to the Commonwealth under ***the provisions of Section 2 of this Act,*** KRS 136.070, 136.120, 141.020, or 141.040; and

(c) Purchases coal subject to the tax imposed under KRS 143.020 that is used by the taxpayer, or by a parent company if the taxpayer is a wholly owned subsidiary, for the purpose of generating electricity.

(2) The amount of the allowable credit shall be two dollars ($2) per each incentive ton of coal purchased that is subject to tax under KRS 143.020 and that is used to generate electric power.

(3) Incentive tons are calculated as the tons of coal purchased in the current year for which coal severance tax was paid minus the tons of coal purchased and used during the base year.

(4) The base year amount shall be equal to:

(a) For entities existing on July 14, 2000, that meet the eligibility requirements imposed under subsection (1) of this section, the tons of coal purchased and used to generate electricity during the twelve (12) calendar months ending in December 31, 1999, that were subject to the tax imposed by KRS 143.020; or

(b) For entities that come into existence after July 14, 2000, that meet the eligibility requirements imposed under subsection (1) of this section, the base year amount shall be equal to zero (0). However, no company qualifying for the credit as of July 14, 2000, with a base year calculation as provided under subsection (4)(a) of this section may create an affiliate, subsidiary, or corporation that would qualify for a base year of zero (0).

(5) On or before March 15 of each year, a company eligible for the credit provided under subsection (2) of this section shall file a coal incentive credit claim on forms prescribed by the Revenue Cabinet. At the time of filing for the credit, the taxpayer shall submit verification of the tons of coal purchased in the base year and the tons of coal purchased in the year

for which the credit is being claimed. The Revenue Cabinet shall determine the amount of the eligible credit and issue a credit certificate to the taxpayer.

(6) The taxpayer shall be eligible to apply, subject to the conditions imposed under subsection (7) of this section, the amount identified on the credit certificate issued by the Revenue Cabinet under subsection (5) of this section, against the taxpayer's liability for the taxes, in consecutive order as follows:

(a) The tax imposed by Section 2 of this Act;

(b)[~~(a)~~]KRS 141.040;

(c)[~~(b)~~]KRS 141.020;

(d)[~~(c)~~]KRS 136.070; and

(e)[~~(d)~~]KRS 136.120.

(7) The credit shall meet the entirety of the taxpayer's liability under the first tax listed in consecutive order under subsection (6) of this section before applying the remaining credit to the next tax listed in consecutive order. The taxpayer's total liability under each preceding tax must be fully met before the remaining credit can be applied to the subsequent tax listed in consecutive order.

(8) The taxpayer shall maintain records required in subsection (5) of this section for a period of five (5) years.

(9) Acceptable verification of coal purchased during the base year shall include invoices that indicate the tons of coal purchased from a Kentucky supplier of coal and proof of remittance for that purchase.

(10) The Revenue Cabinet shall develop the forms required under subsection (5) of this section, specifying the procedure for claiming the credit, and applying the credit against the taxpayer's liability in the order provided under subsections (6) and (7) of this section.

Section 15. This Act takes effect August 1, 2002.

The Committee Substitute to **HB 864** is as follows:

HB 864, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 13 of this Act:

(1) "Cabinet" means the Revenue Cabinet;

(2) "Electricity generating peaking plant" means an electricity generating plant that:

(a) Generates electricity for three thousand sixty-six (3,066) hours or less within a twelve (12) month period; and

(b) Uses fossil fuels or solid waste based fuel as the primary fuel source.

(3) "Merchant plant" means an electricity generating peaking plant, together with associated facilities, that is capable of operating at a capacity of ten megawatts (10MW) or more, and sells the electricity that it produces at wholesale, at rates and charges not regulated by the Public Service Commission. "Merchant plant" does not include:

(a) An electricity generating peaking plant and associated facilities directly owned or controlled by a utility or affiliate as defined in KRS Chapter 278;

(b) A city or municipal electricity generation peaking plant;

(c) A generation and transmission cooperative as defined in KRS 278.010(9);

(d) A self-generator of electricity as defined in this section; or

(e) An agency or instrumentality of the United States Government.

(4) "Person" means any individual, firm, partnership, joint venture, association, corporation, company, joint stock association, limited liability company, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, government unit or agency, or any other group or combination acting as a unit and the legal successor thereof.

(5) "Self-generator of electricity" means a person, including a co-generation plant, who generates, by means of an on-site facility wholly owned by or leased in its entirety to such person, electricity for his own consumption.

SECTION 2. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

A tax is hereby imposed at the rate of two-tenths of one cent ($0.002) per kilowatt hour of electricity generated by a merchant plant located in Kentucky and the tax shall not be passed on to the customer as a separate charge or otherwise.

SECTION 3. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

Every merchant power plant subject to the tax imposed by Section 2 of this Act shall register with the cabinet by submitting a registration application in the form prescribed by the cabinet. The registration application shall be signed by the owner if a natural person; in the case of an association, limited liability company or partnership, by a member or partner; in the case of *a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) The tax imposed in Section 2 of this Act shall be due and payable to the cabinet on a calendar quarter basis and shall be remitted on or before the twentieth calendar day following the close of the preceding calendar quarter.

(2) On or before the twentieth calendar day following the close of the preceding calendar quarter, a return for the preceding calendar quarter shall be filed with the cabinet on the form prescribed by the cabinet, together with payment of any tax due.

SECTION 5. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) As soon as practicable after each return filed under Section 4 of this Act is received, the cabinet shall examine it. If the amount of tax computed by the cabinet is greater than the amount returned by the taxpayer, the excess shall be assessed by the cabinet within four (4) years from the later of the date the return was filed or due. Except in the case of a failure to file a return or a fraudulent return, the excess may be assessed at any time.

(2) Any merchant power plant aggrieved by any action of the cabinet may request a review and shall have the rights of appeal as set forth in KRS Chapter 131.

SECTION 6. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

In making a determination of tax liability, the cabinet may offset overpayments for a period or periods, together with interest on the overpayments, against any underpayments for another period or periods, against penalties, and against the interest on the underpayments.

SECTION 7. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) Every merchant power plant subject to the tax imposed in Section 2 of this Act shall keep records, receipts, invoices, and other pertinent papers in such form as the cabinet may require.

(2) Every merchant plant who files the returns required under Section 4 of this Act shall keep records for not less than five (5) years from the making of the records unless the cabinet in writing authorizes their destruction at an earlier date.

SECTION 8. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

In every case, any tax due under Section 2 of this Act that is not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.183 from the date due until the date of payment.

SECTION 9. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) The tax paid under Section 4 of this Act shall be refunded or credited in the manner provided in KRS 134.580.

(2) A claim for refund or credit shall be made on a form prescribed by the cabinet and shall contain information that the cabinet requires.

SECTION 10. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

The cabinet shall administer the provisions of Sections 1 to 13 of this Act and shall have all the powers, rights, duties, and authority with respect to the assessment, collection, refunding, and administration of taxes conferred generally upon the cabinet by the Kentucky Revised Statutes including KRS Chapters 131, 134, and 135.

SECTION 11. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) Whenever it is deemed necessary to insure compliance with the provisions of Sections 1 to 13 of this Act, the cabinet may require any person subject to the tax imposed by Sections 1 to 13 of this Act to place security with it. The amount of the security shall be fixed by the cabinet but shall not be greater than three (3) times the estimated average quarterly liability of the merchant plant. This limitation shall apply regardless of the type of security placed with the cabinet.

(2) The amount of the security may be increased or decreased by the cabinet, subject to the limitations provided in subsection (1) of this section.

(3) (a) If necessary, the cabinet may sell the security at public auction in order to recover any tax, penalty, or interest due. However, security in the form of a bearer bond issued by the United States or any state or local governmental unit which has a prevailing market price may be sold by the cabinet at a private sale at a price not lower than the prevailing market price.

(b) 1. The cabinet shall provide notice by certified mail, sent to the last known address as reflected in the records of the cabinet, or by delivery, to the person who placed the security with the cabinet of the date, time, and place of the sale.

2. Delivery means mailing the notice to the person it is addressed to, leaving the notice at his place of business with the person in charge of the place of business, or, if there is no one in charge, leaving the notice at a conspicuous place at the place of business. If the place of business is closed, or the person to be served has no place of business, leaving it at his home, with a person of suitable age and discretion residing in the home. Notice by certified mail must be postmarked no later than ten (10) days prior to the sale. Notice by delivery must be given no later than ten (10) days prior to the sale.

(c) Any amount in excess of the amount due the cabinet after the sale shall be returned to the person placing the security.

(4) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of a merchant power plant's business until the security is obtained. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction over the merchant plant.

SECTION 12. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provisions to the contrary, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of Section 2 of this Act shall be personally and individually liable, both jointly and severally, for the tax imposed under Section 2 of this Act. Corporate dissolution, withdrawal of the corporation from the state, or the cessation of holding any corporate office shall not discharge the liability imposed upon any person. The personal and individual liability shall apply to each and every person holding a corporate office at the time the tax becomes or became due. No person shall be personally and individually liable under this section who had no authority to collect, truthfully account for, or pay over any tax imposed by Section 2 of this Act at the time the tax imposed becomes or became due. "Tax" as used in this subsection shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under the provisions of this chapter, all applicable penalties imposed under the provisions of Section 13 of this Act, and KRS 131.990.

(2) Notwithstanding any other provision of this chapter, KRS 275.150, or KRS 362.220(2) to the contrary, the managers of a limited liability company and the partners of a registered limited liability partnership or any other person holding any equivalent office of a limited liability company or a registered limited liability partnership subject to the provisions of Section 2 of this Act shall be personally and individually liable, both jointly and severally, for the taxes imposed under Section 2 of this Act. Dissolution, withdrawal of the limited liability company or registered limited liability partnership from the state, or the cessation of holding any office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every manager of a limited liability company and partner of a registered limited liability partnership at the time the tax becomes or became due. No person shall be personally and individually liable under this subsection who had no authority to collect, truthfully account for, or pay over any tax imposed by Section 2 of this Act at the time the tax becomes or became due. "Tax" as used in this subsection shall include interest accrued at the rate provided under KRS 131.183, all applicable penalties imposed under the provisions of this chapter, and all applicable penalties imposed under the provisions of Section 13 of this Act and 131.990.

SECTION 13. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

Penalties for violating Sections 1 to 13 of this Act shall be imposed and assessed in accordance with the provisions of KRS 131.180.

Section 14. KRS 141.0405 is amended to read as follows:

(1) There shall be allowed a nonrefundable credit against taxes imposed by the Commonwealth on any taxpayer that:

  (a) 1. Is an electric power company as defined in KRS Chapter 136; or

    2. Is an entity that owns or operates a coal-fired electric generation plant;

  (b) Remits tax to the Commonwealth under *the provisions of Section 2 of this Act,* KRS 136.070, 136.120, 141.020, or 141.040; and

  (c) Purchases coal subject to the tax imposed under KRS 143.020 that is used by the taxpayer, or by a parent company if the taxpayer is a wholly owned subsidiary, for the purpose of generating electricity.

(2) The amount of the allowable credit shall be two dollars ($2) per each incentive ton of coal purchased that is subject to tax under KRS 143.020 and that is used to generate electric power.

(3) Incentive tons are calculated as the tons of coal purchased in the current year for which coal severance tax was paid minus the tons of coal purchased and used during the base year.

(4) The base year amount shall be equal to:

  (a) For entities existing on July 14, 2000, that meet the eligibility requirements imposed under subsection (1) of this section, the tons of coal purchased and used to generate electricity during the twelve (12) calendar months ending in December 31, 1999, that were subject to the tax imposed by KRS 143.020; or

  (b) For entities that come into existence after July 14, 2000, that meet the eligibility requirements imposed under subsection (1) of this section, the base year amount shall be equal to zero (0). However, no company qualifying for the credit as of July 14, 2000, with a base year calculation as provided under subsection (4)(a) of this section may create an affiliate, subsidiary, or corporation that would qualify for a base year of zero (0).

(5) On or before March 15 of each year, a company eligible for the credit provided under subsection (2) of this section shall file a coal incentive credit claim on forms prescribed by the Revenue Cabinet. At the time of filing for the credit, the taxpayer shall submit verification of the tons of coal purchased in the base year and the tons of coal purchased in the year for which the credit is being claimed. The Revenue Cabinet shall determine the amount of the eligible credit and issue a credit certificate to the taxpayer.

(6) The taxpayer shall be eligible to apply, subject to the conditions imposed under subsection (7) of this section, the amount identified on the credit certificate issued by the Revenue Cabinet under subsection (5) of this section, against the taxpayer's

liability for the taxes, in consecutive order as follows:

(a) The tax imposed by Section 2 of this Act;

(b)[~~(a)~~]KRS 141.040;

(c)[~~(b)~~]KRS 141.020;

(d)[~~(c)~~]KRS 136.070; and

(e)[~~(d)~~]KRS 136.120.

(7) The credit shall meet the entirety of the taxpayer's liability under the first tax listed in consecutive order under subsection (6) of this section before applying the remaining credit to the next tax listed in consecutive order. The taxpayer's total liability under each preceding tax must be fully met before the remaining credit can be applied to the subsequent tax listed in consecutive order.

(8) The taxpayer shall maintain records required in subsection (5) of this section for a period of five (5) years.

(9) Acceptable verification of coal purchased during the base year shall include invoices that indicate the tons of coal purchased from a Kentucky supplier of coal and proof of remittance for that purchase.

(10) The Revenue Cabinet shall develop the forms required under subsection (5) of this section, specifying the procedure for claiming the credit, and applying the credit against the taxpayer's liability in the order provided under subsections (6) and (7) of this section.

Section 15. This Act takes effect August 1, 2002.

The Committee on Judiciary reported **HB 432, SB 111, SB 222,** and **SB 227,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 432, AN ACT relating to civil matters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 411.045 is amended to read as follows:

In the actions for libel or slander, the defendant may state the truth of the alleged libel or slander, and any mitigating circumstances; and, whether he *or she proves*[~~ prove~~] the justification or not, he *or she* may prove the mitigating circumstances to reduce the amount of damages.

SB 111, AN ACT relating to searching for and rescue of lost persons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 39F.180 is amended to read as follows:

(1) All 911 centers and dispatch centers, law enforcement agencies, law enforcement dispatchers, fire departments, rescue squads, emergency medical service agencies, and emergency management agencies shall report the information required to be reported by administrative regulation, for all reports of persons missing, lost, or overdue, if a search for the lost person has lasted for more than two (2) hours to:

(a) The local emergency management director; and

(b) The local search and rescue coordinator for the jurisdiction in which the person is reported missing.

(2) *(a)* Any search for a missing minor, as that term is defined in KRS 2.015, shall be reported to the Kentucky State Police by the person or organization to whom the missing minor is reported.

(b) A search for a person who is known or reported to have an organic brain disorder, including but not limited to Alzheimer's disease, shall immediately be reported to the local emergency management director, local search and rescue coordinator if different from the local emergency manager, and the duty officer of the Division of Emergency Management by the person managing the search or by the organization conducting the search.

(c) The making of this report does not relieve the person or organization from the duty to make other notifications and reports required in this section.

(3) Any search and rescue mission which has lasted four (4) hours without the subject being located, shall be immediately reported to the duty officer of the Division of Emergency Management by telephone or radio.

(4) The results of each lost, missing, or overdue person report or search mission required to be reported under subsections (1) to (3) of this section shall be reported to the division and the local director on forms provided by the division and containing the information required by administrative regulation. The report shall be filed within twenty (20) days after:

(a) The search and rescue mission is discontinued; or

(b) The victim has not been found and a decision is made to keep the case open or continue searching on a limited basis, whichever occurs earlier.

(5) Each agency required to notify a local emergency management director or the division of a report of a missing person, or a search mission pursuant to this section shall develop a written standard operating procedure for handling and reporting requests to search for missing, lost, or overdue persons. This standard operating procedure shall be a public record.

(6) The contents of reports, information to be conveyed upon notification, and other matters relating to the administration of this section and the securing of information required hereby shall be specified by the division by administrative regulations.

(7) There is no requirement in Kentucky to delay the search for or rescue of any lost, missing, or overdue person. Any person who is reported lost, missing, or overdue, adult or child, may be searched for immediately by any emergency management, fire, law enforcement, emergency medical services, search and rescue, rescue squad, or other similar organization to which a missing or overdue person is reported. No public safety answering point, emergency dispatch center, or 911 center shall delay any call reporting a person lost, overdue, or missing to the organization specified in the county search and rescue annex of the county emergency management plan as responsible for searching for lost, missing, or overdue persons.

SB 222, AN ACT relating to parole of prisoners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.340 is amended to read as follows:

(1) The board may release on parole persons confined in any adult state penal or correctional institution of Kentucky or sentenced felons incarcerated in county jails eligible for parole. All paroles shall issue upon order of the board duly adopted. As soon as practicable after his admission to an adult state penal or correctional institution or county jail if he is a sentenced felon, and at such intervals thereafter as it may determine, the Department of Corrections shall obtain all pertinent information regarding each prisoner, except those not eligible for parole. The information shall include his criminal record, his conduct, employment, and attitude in prison, and the reports of physical and mental examinations that have been made. The Department of Corrections shall furnish the circumstances of his offense and his previous social history to the institution and the board. The Department of Corrections shall prepare a report on any information it obtains. It shall be the duty of the Department of Corrections to supplement this report with any material the board may request and submit the report to the board.

(2) Before granting the parole of any prisoner, the board shall consider the pertinent information regarding the prisoner and shall have him appear before it for interview and hearing. The board in its discretion may hold interviews and hearings for prisoners convicted of Class D felonies. The board in its discretion may request the parole board of another state confining prisoners pursuant to KRS 196.610 to interview eligible prisoners and make a parole recommendation to the board. A parole shall be ordered only for the best interest of society and not as an award of clemency, and it shall not be considered a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and care, and when the board believes he is able and willing to fulfill the obligations of a law abiding citizen. ***Notwithstanding any statute to the contrary, including KRS 440.330, when a prisoner is otherwise eligible for parole and the board has recommended parole for that prisoner for the reasons set forth in subsection (2) of this section, the board may grant parole to any prisoner wanted as a fugitive by any other jurisdiction, and the prisoner shall be released to the detainer from that jurisdiction. Such parole shall not constitute a relinquishment of jurisdiction over the prisoner, and the board in all cases expressly reserves the right to return the prisoner to confinement in a correctional institution of the Commonwealth if the prisoner violates the terms of his or her parole.***

(3) The board shall adopt administrative regulations with respect to the eligibility of prisoners for parole, the conduct of parole and parole revocation hearings, or conditions to be imposed upon parolees. Regulations governing the eligibility of prisoners for parole shall be in accordance with professionally accepted ideas of correction and reform and may utilize in part objective, performance-based criteria; however, nothing herein contained shall preclude the board from utilizing its present regulations in conjunction with other factors involved that would relate to the inmate's needs and the safety of the public.

(4) The board shall insure that sentenced felons confined in county jails are considered for parole within thirty (30) days of their parole eligibility date and the Department of Corrections shall provide the necessary assistance and information to the board in order for it to conduct timely parole reviews.

(5) In addition to or in conjunction with each hearing conducted under subsection (2) of this section for any prisoner convicted of a Class A, B, or C felony and prior to the granting of a parole to any such prisoner, the parole board shall conduct a hearing of which the following persons shall receive not less than forty-five (45) nor more than ninety (90) days' notice: the Commonwealth's attorney who shall notify the sheriff of every county and the chief of police of every city and county in which the prisoner committed any Class A, B, or C felony for which he is imprisoned, and all identified victims of the crimes or the next of kin of any victim who is deceased. Notice to the Commonwealth's attorney shall be by mail to his business office. Notices received by chiefs of police and sheriffs shall be posted in a conspicuous location where police employed by the department may see it. Notices shall be posted in a manner and at a time that will allow officers to make comment thereon to the Parole Board. Notice to victims or their next of kin shall be made, for prisoners incarcerated prior

to July 15, 1986, by mail to the Commonwealth's attorney who shall forward the notice promptly to the victims or their next of kin at their last known address. For prisoners incarcerated on or after July 15, 1986, notice to the victims or their next of kin shall be by mail from the Parole Board to their last known address as provided by the Commonwealth's attorney to the Parole Board at the time of incarceration of the prisoner. The notice shall include the time, date, and place of the hearing provided for in this subsection, and the name and address of a person to write if the recipient of the notice desires to attend the hearing or to submit written comments.

(6) Persons receiving notice as provided for in subsection (5) of this section may submit comments, in person or in writing, to the board upon all issues relating to the parole of the prisoner. The board shall read and consider all comments prior to making its parole decision, if they are received by the board not less than seven (7) days before the date for the hearing. The board shall retain all comments in the prisoner's permanent Parole Board file, and shall consider them in conjunction with any subsequent parole decisions affecting the prisoner. In addition to officers listed in subsection (5) of this section, the crime victims or the next of kin of any victim who is deceased or who is disabled and cannot attend the hearing or the parent or legal guardian of any victim who is a minor may attend the hearing provided for in subsection (5) of this section and present oral and written comments upon all issues relating to the parole of the prisoner, if they have advised the board, in writing received by the board not less than seven (7) days prior to the date set for the hearing, of their intention to attend the hearing. The board shall receive and consider all comments, shall make a record of them which it shall retain in the prisoner's permanent Parole Board file, and shall consider them in conjunction with any subsequent parole decision affecting the prisoner. Persons appearing before the Parole Board pursuant to this subsection may elect to make their presentations outside of the presence of the prisoner.

(7) Victims of Class D felonies may submit comments in person or in writing to the board upon all issues relating to the parole of a prisoner.

(8) Any hearing provided for in subsections (5), (6), and (7) of this section shall be open to the public unless the persons having a right to appear before the board as specified in those subsections request closure of hearing for reasons of personal safety, in which event the hearing shall be closed. The time, date, and location of closed hearings shall not be disclosed to the public.

(9) Except as specifically set forth in this section, nothing in this section shall be deemed to expand or abridge any existing rights of persons to contact and communicate with the Parole Board or any of its members, agents, or employees.

(10) The unintentional failure by the Parole Board, sheriff, chief of police, or any of its members, agents, or employees or by a Commonwealth's attorney or any of his agents or employees to comply with any of the provisions of subsections (5), (6), and (8) of this section shall not affect the validity of any parole decision or give rise to any right or cause of action by the crime victim, the prisoner, or any other person.

(11) No eligible sexual offender within the meaning of KRS 197.400 to 197.440 shall be granted parole unless he has successfully completed the Sexual Offender Treatment Program.

(12) Any prisoner who is granted parole after completion of the Sexual Offender Treatment Program shall be required, as a condition of his parole, to participate in regular treatment in a mental health program approved or operated by the Department of Corrections.

(13) When an order for parole is issued, it shall recite the conditions thereof.

SB 227, AN ACT relating to sexual offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 510.060 is amended to read as follows:

(1) A person is guilty of rape in the third degree when:

(a) He engages in sexual intercourse with another person who is incapable of consent because he is mentally retarded or mentally incapacitated;[~~ or~~]

(b) Being twenty-one (21) years old or more, he engages in sexual intercourse with another person less than sixteen (16) years old***; or***

(c) Being twenty-one (21) years old or more, he engages in sexual intercourse with another person less than eighteen (18) years old and for whom he provides a foster family home as defined in KRS 600.020.

(2) Rape in the third degree is a Class D felony.

Section 2. KRS 510.090 is amended to read as follows:

(1) A person is guilty of sodomy in the third degree when:

(a) He engages in deviate sexual intercourse with another person who is incapable of consent because he is mentally retarded or mentally incapacitated;[~~ or~~]

(b) Being twenty-one (21) years old or more, he engages in deviate sexual intercourse with another person less than sixteen (16) years old***; or***

(c) Being twenty-one (21) years old or more, he engages in deviate sexual intercourse with another person less than

eighteen (18) years old and for whom he provides a foster family home as defined in KRS 600.020.

(2) Sodomy in the third degree is a Class D felony.

Section 3. KRS 510.110 is amended to read as follows:

(1) A person is guilty of sexual abuse in the first degree when:

(a) He subjects another person to sexual contact by forcible compulsion;~~[or]~~

(b) He subjects another person to sexual contact who is incapable of consent because he:

1. Is physically helpless; or

2. Is less than twelve (12) years old***; or***

(c) Being twenty-one (21) years old or more, he subjects another person to sexual contact who is less than eighteen (18) years old and for whom he provides a foster family home as defined in KRS 600.020.

(2) Sexual abuse in the first degree is a Class D felony.

The Committee Substitute to **SB 227** is as follows:

SB 227, AN ACT relating to sexual offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 510.060 is amended to read as follows:

(1) A person is guilty of rape in the third degree when:

(a) He engages in sexual intercourse with another person who is incapable of consent because he is mentally retarded or mentally incapacitated;~~[or]~~

(b) Being twenty-one (21) years old or more, he engages in sexual intercourse with another person less than sixteen (16) years old***; or***

(c) Being twenty-one (21) years old or more, he engages in sexual intercourse with another person less than eighteen (18) years old and for whom he provides a foster family home as defined in KRS 600.020.

(2) Rape in the third degree is a Class D felony.

Section 2. KRS 510.090 is amended to read as follows:

(1) A person is guilty of sodomy in the third degree when:

(a) He engages in deviate sexual intercourse with another person who is incapable of consent because he is mentally retarded or mentally incapacitated;~~[or]~~

(b) Being twenty-one (21) years old or more, he engages in deviate sexual intercourse with another person less than sixteen (16) years old***; or***

(c) Being twenty-one (21) years old or more, he engages in deviate sexual intercourse with another person less than eighteen (18) years old and for whom he provides a foster family home as defined in KRS 600.020.

(2) Sodomy in the third degree is a Class D felony.

Section 3. KRS 510.120 is amended to read as follows:

(1) A person is guilty of sexual abuse in the second degree when:

(a) He subjects another person to sexual contact who is incapable of consent because he is mentally retarded or mentally incapacitated;

(b) He subjects another person who is less than fourteen (14) years old to sexual contact;~~[or]~~

(c) Being an employee, contractor, vendor, or volunteer of the Department of Corrections, or a detention facility as defined in KRS 520.010, or of an entity under contract with either the department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he subjects an offender who is incarcerated, supervised, evaluated, or treated by the Department of Corrections, the detention facility, or the contracting entity, to sexual contact. In any prosecution under this paragraph, the defendant may prove in exculpation that, at the time he engaged in the conduct constituting the offense, he and the offender were married to each other***; or***

(d) Being twenty-one (21) years old or more, he subjects another person to sexual contact who is less than eighteen (18) years old and for whom he provides a foster family home as defined in KRS 600.020.

(2) Sexual abuse in the second degree is a Class A misdemeanor.

The Committee on Licensing and Occupations reported **SB 123,** with Committee Substitute and Committee Amendment attached thereto, **SB 195,** and **SB 234,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 123, AN ACT relating to the consumption of wine.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provision to the contrary, a restaurant wine license holder who sells wine may permit his or her patrons to bring an unopened container of wine on the restaurant premises for consumption on the premises if done so in conjunction with the eating of a meal purchased from the restaurant. A patron shall not leave the restaurant with an open container of wine and the restaurant shall discard any open container of wine that remains upon the patron's completion of the meal. The restaurant may charge a fee for uncorking the wine, providing glasses, or serving the wine.

The Committee Substitute to **SB 123** is as follows:

SB 123, AN ACT relating to the consumption of wine.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provision to the contrary, a restaurant wine license holder who sells wine may permit his or her patrons to bring an unopened container of wine on the restaurant premises for consumption on the premises if done so in conjunction with the eating of a meal purchased from the restaurant. A patron shall not leave the restaurant with an open container of wine and the restaurant shall discard any open container of wine that remains upon the patron's completion of the meal. The restaurant may charge a fee for uncorking the wine, providing glasses, or serving the wine.

Section 2. KRS 243.0305 is amended to read as follows:

(1) A souvenir retail liquor license may be issued to any licensed Kentucky distiller that has a gift shop or other retail outlet on its premises, if the distillery is located in wet territory. The application shall be made on forms provided by the board.

(2) A wholesaler registered to distribute the brands of any distiller holding a souvenir retail license may permit the distiller to deliver a souvenir package directly from the distillery proper to the portion of the distillery premises operated by the licensee for the sale of souvenir packages. However, all direct shipments shall be invoiced from the distiller to the wholesaler and from the wholesaler to the souvenir package licensee, and all products directly shipped shall be included in the wholesaler's inventory and depletions for purposes of tax collections imposed pursuant to KRS 243.710 to 243.895 and 243.990.

(3) A distiller who has obtained a souvenir retail license may sell souvenir packages at retail to distillery visitors of legal drinking age, in quantities not to exceed an aggregate of three (3) liters per visitor per day***, with the exception of a purchase by a partnership, limited liability partnership, corporation, limited liability company, or other business entity holding an event on the premises of the distillery, in which case the limitation shall be one (1) liter per visitor attending the event***. These sales shall be permitted only through the gift shop or other retail outlet on the distiller's premises.

(4) Hours of sale for a souvenir retail liquor licensee shall be 9 a.m. until 9 p.m. prevailing time Monday through Saturday. The licensed premises may remain open if they have a separate department pursuant to KRS 244.290(1).

(5) Except as provided in this section, souvenir retail liquor licenses shall be governed by all the statutes and administrative regulations governing the retail sale of distilled spirits by the package.

(6) No wholesaler may restrict the sale of souvenir packages to the souvenir retail liquor licensee exclusively, but shall make souvenir packages available to any Kentucky retail licensee licensed for the sale of distilled spirits by the package.

Section 3. KRS 243.200 is amended to read as follows:

(1) A distilled spirits and wine transporter's license shall authorize the licensee to transport distilled spirits and wine to or from the licensed premises of any licensee under KRS 243.020 to 243.670 if both the consignor and consignee in each case are authorized by the law of the states of their residence to sell, purchase, ship or receive the alcoholic beverages.

(2) A distilled spirits and wine transporter's license shall be issued only to persons authorized by proper certificate from the Department of Vehicle Regulation to engage in the business of common carrier.

(3) No person except a railroad company or railway express company shall transport or cause to be transported any distilled spirits or wine, unless expressly authorized to do so by law.

(4) Distilled spirits and wine may be transported by the holder of any license authorized by KRS 243.030 from and to express or freight depots to and from the premises covered by the license of the person so transporting distilled spirits or wine.

(5) A licensed alcoholic beverage store operator may move, within the same county, alcoholic beverages from one of the operator's licensed stores to another without a transporter's license. However, the licensed store operator shall keep and maintain, in one (1) of his or her stores in that county, adequate books and records of the transactions involved in transporting alcoholic beverages from one (1) licensed store to another in accordance with standards established in administrative regulations promulgated by the board. The records shall be available to the department and the Revenue Cabinet upon request.

(6) Distilled spirits and wine may be transported by the holder of any retail package license or retail drink license issued

under Section 5 of this Act from the premises of a licensed wholesaler to the licensed premises of the retail package or retail drink licensee. Any retailer transporting alcoholic beverages under this section shall do so in a vehicle marked in conformity with administrative regulations of the Department of Alcoholic Beverage Control. Both the wholesaler and retailer engaging in activity under this section shall be responsible for maintaining records documenting the transaction.

Section 4. KRS 244.050 is amended to read as follows:

(1) No retail licensee shall give away any alcoholic beverage in any quantity, or deliver it in any quantity for less than a full monetary consideration, except as provided by KRS 243.155, 243.156, 243.157, and subsection (2) of this section.

(2) A retailer licensed to sell distilled spirits and wine under KRS 243.030(7) or (27) may, after acquiring a license under KRS 243.030(41), allow customers to sample distilled spirits and wine under the following conditions:

- (a) Sampling shall be permitted only on licensed premises and, for retailers licensed under KRS 243.030(27), during regular business hours;
- (b) A licensee shall not charge for the samples provided to customers;
- (c) Sample sizes shall not exceed:
  - 1. One (1) ounce for wine; and
  - 2. One-half (1/2) ounce for distilled spirits; and
- (d) A licensee shall limit a customer to:
  - 1. Two (2) distilled spirits samples per day; and
  - 2. Six (6) wine samples per day.

(3) Retailers licensed under KRS 243.030(7) ***and (8)*** shall:

- (a) Notify the Department of Alcoholic Beverage Control at least seven (7) days in advance of conducting a sampling event; and
- (b) Limit a sampling event to a period not to exceed four (4) consecutive hours between 12 noon and 8 p.m.

Section 5. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

(1)	Distiller's license, per annum	$2,500.00
(2)	Rectifier's license, per annum	$2,500.00
(3)	Blender's license, per annum	$2,500.00
(4)	Vintner's license, per annum	$1,000.00
(5)	Small winery license, per annum	$100.00
(a)	Small winery off-premises retail license, per annum	$25.00
(6)	Wholesaler's license, per annum	$2,000.00
(7)	Retail package license, per annum:	
(a)	In counties containing cities of the first class	$800.00
(b)	In counties containing cities of the second class	$700.00
(c)	In counties containing cities of the third class	$600.00
(d)	In counties containing cities of the fourth class	$500.00
(e)	In all other counties	$400.00
(8)	Retail drink license, motel drink license, restaurant drink license, or supplemental bar license, ***or golf cart supplemental license*** per annum:	
(a)	In counties containing cities of the first class	$1,000.00
(b)	In counties containing cities of the second class	$700.00
(c)	In counties containing cities of the third class	$600.00
(d)	In counties containing cities of the fourth class	$500.00
(e)	The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.	
(9)	Transporter's license, per annum	$100.00
(10)	Dining car license, per annum	$100.00
(11)	Special nonbeverage alcohol vendor's license, per annum	$50.00

(12)	Special industrial alcohol license, per annum	$50.00
(13)	Special nonindustrial alcohol license, per annum	$50.00
(14)	Special agent's or solicitor's license, per annum	$25.00
(15)	Special storage or warehouse license and bottling house storage license, per annum	$500.00
(16)	Special temporary liquor license, per event	$100.00
(17)	Special private club license, per annum	$300.00

The fee for each special private club license shall be the fee set out in this subsection; however, there shall be no charge for each special private club license issued in excess of six (6) that is issued to the same licensee at the same premises.

(18)	Special Sunday retail drink license, per annum	$500.00
(19)	Nonresident, special agent or solicitor's license, per annum	$100.00
(20)	Transport permit, nonresident license, per annum	$100.00
(21)	Through transporter's license, per annum	$100.00
(22)	Freight forwarder's license, per annum	$100.00
(23)	Restaurant wine license, per annum	$500.00
(24)	Farm winery license, per annum	$100.00
	(a) Farm winery, off-premises retail outlet license, per annum	$25.00
(25)	Special temporary wine license, per event	$50.00
(26)	Caterer's license, per annum	$800.00
(27)	Souvenir retail liquor license, per annum	$500.00
(28)	Special temporary distilled spirits and wine auction license, per event	$100.00
(29)	Airport drink license, per annum	$1,000.00
(30)	Convention center or convention hotel complex license, per annum	$5,000.00
(31)	Extended hours supplemental license, per annum	$2,000.00
(32)	Horse race track license, per annum	$2,000.00
(33)	Automobile race track license, per annum	$2,000.00
(34)	Air or rail system license, per annum	$2,000.00
(35)	Riverboat license, per annum	$1,000.00
(36)	Bottling house license, per annum	$1,000.00
(37)	Hotel in-room license, per annum	$200.00
(38)	Bonded warehouse license, per annum	$1,000.00
(39)	Air transporter liquor license, per annum	$500.00
(40)	Sampling license, per annum	$100.00
(41)	Replacement or duplicate license	$25.00

(42) Other special licenses the board finds necessary for the proper regulation and control of the traffic in distilled spirits and wine and provides for by administrative regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

A nonrefundable application fee of fifty dollars ($50) shall be charged to process each new application under this section, except for subsections (5), (9), (11), (12), (13), (14), (16), (19), (20), (21), (22), (24), (25), (28), and (41). The application fee shall be applied to the licensing fee if the license is issued; otherwise it shall be retained by the department.

Section 6. KRS 243.033 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise, "caterer" means a corporation, partnership, or individual that operates the business of a food service professional by preparing food and beverages in a licensed and inspected commissary, ***or banquet hall, and*** transporting the food and beverages to a location selected by the customer away from the commissary premises ***or serving the food at the caterer's banquet hall***, and serving the food and beverages to the customer's guests.

(2) A caterer's license may be issued as a supplementary license to a caterer that holds a retail package liquor license or a distilled spirits and wine by the drink retail license.

(3) The caterer's license may be issued to a caterer, that does not meet the requirements of subsection (2) of this section, for

the premises that serves as the caterer's commissary. The alcoholic beverage stock of the caterer shall be kept under lock and key at the licensed premises ***or other location*** during the time that the alcoholic beverages are not being used in conjunction with a catered function.

(4) The caterer's license shall authorize the caterer to:

(a) Purchase and store alcoholic beverages in the manner prescribed in KRS 243.250, 243.280, and 244.310;

(b) Transport, sell, serve, and deliver alcoholic beverages by the drink at locations in wet territory away from the licensed premises in conjunction with the catering of food and beverages for a customer and his guests. Distilled spirits and wine may only be transported, sold, served, or delivered in cities of the first, second, or third classes, counties containing cities of the first, second, or third classes, and cities of the fourth class in which the sale of distilled spirits and wine has been adopted pursuant to KRS 242.127;

(c) Receive and fill telephone orders for alcoholic beverages in conjunction with the ordering of food for a function catered by the licensee; and

(d) Receive payment for alcoholic beverages served at a function on a by-the-drink or by-the-function basis. The caterer may bill the host for by-the-function sales of alcoholic beverages in the usual course of the caterer's business.

(5) ***(a) Except as provided in paragraph (b) of this subsection,*** a caterer licensee shall not cater alcoholic beverages at locations for which retail alcoholic beverage licenses or special temporary licenses have been issued.

(b) A caterer shall be permitted to cater alcoholic beverages at locations for which retail malt beverage licenses have been issued to nonprofit organizations.

(6) A caterer licensee shall not cater distilled spirits and wine on Sunday except in territory in which the Sunday sale of distilled spirits and wine is permitted under the provisions of KRS 244.290. A caterer licensee shall not cater malt beverages on Sunday except in territory in which the Sunday sale of malt beverages is permitted under the provisions of KRS 244.480.

(7) The location at which alcoholic beverages are sold, served, and delivered by a caterer, pursuant to this section, shall not constitute a public place for the purpose of KRS Chapter 222. If the location is a multi-unit structure, only the unit or units at which the function being catered is held shall be excluded from the public place provisions of KRS Chapter 222.

(8) The caterer licensee shall post a copy of his caterer's license at the location of the function for which alcoholic beverages are catered.

(9) The name and license numbers of the caterer shall be painted, in a contrasting color, in a form prescribed by the board by promulgation of an administrative regulation, upon all vehicles used by the caterer to transport alcoholic beverages.

(10) All restrictions and prohibitions applying to a distilled spirits and wine retail drink licensee not inconsistent with this section, shall apply to the caterer licensee.

(11) The caterer licensee shall submit a list of functions catered or to be catered including location, host, date, and time upon request of the board.

Section 7. KRS 243.260 is amended to read as follows:

(1) A distilled spirits and wine special temporary license or a special temporary wine license may be issued to any regularly organized fair, exposition, racing association, or other party, when in the opinion of the board a necessity therefor exists. This license shall authorize the licensee to exercise the privileges of a distilled spirits and wine retail drink licensee at designated premises for a specified and limited time, not to exceed thirty (30) days; except that the special temporary wine license shall apply to wine sales only. All restrictions and prohibitions applying to a distilled spirits and wine retail drink licensee shall apply also to a special temporary licensee.

(2) A nonprofit organization holding a retail malt beverage license may be issued a special temporary liquor license or a special temporary wine license to sell distilled spirits and wine by the drink on the licensed premises for a specified and limited time, not to exceed ten (10) days, in conjunction with public or private events including, but not limited to weddings, reunions, and festivals.

Section 8. KRS 241.060 is amended to read as follows:

The board shall have the following functions, powers, and duties:

(1) To promulgate reasonable administrative regulations governing procedures relative to the applications for and revocations of licenses, the supervision and control of the use, manufacture, sale, transportation, storage, advertising, and trafficking of alcoholic beverages, and all other matters over which the board has jurisdiction. Administrative regulations need not be uniform in their application but may vary in accordance with reasonable classifications;

(2) To limit in its sound discretion the number of licenses of each kind or class to be issued in this state or any political subdivision, and restrict the locations of licensed premises. To this end, the board may make reasonable division and subdivision of the state or any political subdivision into districts. Administrative regulations relating to the granting, refusal, and revocation of licenses may be different within the several divisions or subdivisions;

(3) To hold hearings ***and render decisions on cases*** in accordance with the provisions of KRS Chapter 13B. The department

may pay witnesses the per diem and mileage provided in KRS 421.015;

(4) To conduct hearings and appeals under KRS 241.150, 241.200, 243.470, and 243.520 and render final orders upon the subjects of the hearings and appeals;

(5) To destroy evidence in the department's possession after all administrative and judicial proceedings are conducted;

(6) To suspend, revoke, or cancel for cause, after a hearing in accordance with KRS Chapter 13B, any license issued under KRS 243.020 to 243.670;

(7) To prohibit the issuance of a license for the premises until the expiration of two (2) years from the time the offense was committed if a violation of KRS Chapter 241, KRS 243.020 to 243.670, or KRS Chapter 244 has taken place on the premises which the owner knew of or should have known of, or was committed or permitted in or on the premises owned by the licensee;[~~ and~~]

(8) To suspend a license for any cause for which the board is authorized to exercise its discretion as to revoking a license***;***

(9) To require a licensee whose license is conditioned on deriving a certain percentage of its income from the sale of food to provide additional documentation of its food and alcohol sales in relation to its gross sales if the state administrator reasonably believes that the minimum percentage of food sales required by statute or administrative regulation is not being met by the licensee; and

(10) To require a licensee to undergo mandatory training in lieu of license suspension or revocation. The training may be used as an alternative to suspension or revocation if the violations are due, in part, to the licensee's inadequate knowledge and can be rectified through training.

Section 9. KRS 243.230 is amended to read as follows:

(1) Licenses to sell distilled spirits and wine by the drink for consumption on the premises may be issued only for premises located within cities of the first, second, or third class, or elsewhere in counties containing a city of the first, second, or third class if those counties maintain an adequate police force under KRS 70.540 and 70.150 to 70.170.

(2) Notwithstanding any other provision of law, a liquor by the drink license to sell distilled spirits and wine for consumption on the premises may be issued for premises located within a city of the fourth class in which the majority of votes cast in the most recent election held under KRS 242.127 and 242.129 were in favor of the proposition voted upon if the city has an adequate police force under KRS 95.710 and 95.760 to 95.787.

(3) Licenses to sell distilled spirits or wine by the package may be issued only for premises located within incorporated cities, or elsewhere in counties containing a city of the first, second, or third class if those counties maintain an adequate police force under KRS 70.540 and 70.150 to 70.170.

(4) Notwithstanding subsection (3) of this section, the board may, after a field investigation, issue a license to sell distilled spirits and wine by the package at premises not located within any city if:

(a) Substantial aggregations of population would otherwise not have reasonable access to a licensed vendor;

(b) The premises to be licensed under this subsection shall be used exclusively for the sale of distilled spirits and wine by the package and malt beverages, where applicable, and shall not be used in any manner, in connection with a dance hall, roadhouse, restaurant, store, or any other commercial enterprise, except as a drug store in which a registered pharmacist is employed.

(5) No retail package or drink license for the sale of distilled spirits or wine shall be issued for any premises used as or in connection with the operation of any business in which a substantial part of the commercial transaction consists of selling at retail staple groceries***, not including, alcoholic beverages, tobacco, soft drinks, candy, hot foods and food products prepared for immediate consumption,*** or gasoline and lubricating oil.

Section 10. KRS 243.270 is amended to read as follows:

(1) A special private club license may be issued to***:***

(a) Any nonprofit social, fraternal, military, or political organization or club, which for more than one (1) year prior to the date of application has maintained and operated a club room or rooms from which the general public is excluded***; or***

(b) Any fraternal society, order, or association which possesses tax exempt status under 26 U.S.C. sec. 501(c)(8) or 501(c)(10), or is covered under a group ruling issued by the Internal Revenue Service under authority of those sections.

(2) This license shall authorize the licensee to exercise the privilege of a malt beverage or a distilled spirits and wine retail drink licensee, or both, at the designated premises if the general public is excluded.

Section 11. KRS 243.360 is amended to read as follows:

(1) Any person, corporation, partnership, or any other entity, except an applicant for the same license for the same premises, or an applicant for an out-of-state brewer's license, supplemental bar license, extended hours supplemental license, a special agent or solicitor's license, a bonded warehouse license, a freight forwarding license, a storage warehouse license, an industrial alcohol license, a nonindustrial alcohol license,[~~ a storage warehouse license,~~] a nonbeverage license, a vendor license, a transporter's license, a Sunday license, ***a hotel-in-room license,*** or a temporary drink license shall, before

applying for a license under KRS 243.030 and 243.040, advertise by publication under KRS 424.130(1)(b) his or her intention to apply for a license.

(2) The notice shall conform in all material respects to the following requirements:

(a) The notice shall state: the name and address of the applicant if the applicant is an individual, the name and address of each partner and the name of the business and its address if the applicant is a partnership, and the name and address of each principal officer and director and the name and business address of the corporation if the applicant is a corporation;

(b) The notice shall specifically state the location of the premises for which the license is sought and the type of license being requested; and

(c) The notice shall state the date the application will be filed and shall contain the following statement: "Any person, association, corporation, or body politic may protest the granting of the license by writing the Department of Alcoholic Beverages, 1003 Twilight Trail, Suite A-2, Frankfort, Kentucky 40601, within thirty (30) days of the date of legal publication."

(3) Any protest received after the thirty (30) day period has expired shall not be considered a valid legal protest by the board.

Section 12. KRS 243.380 is amended to read as follows:

(1) Applications for licenses provided for in KRS 243.030 and 243.050 shall be made to the administrator of the distilled spirits unit. Applications for licenses provided for in KRS 243.040 shall be made to the administrator of the malt beverage unit.

(2) All applications shall be on forms furnished by the department. They shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought as the board by regulation requires. Each application shall be accompanied by ***payment. Payment of the license fee may be by***[~~a~~] certified check, cash***,***[~~, or~~] a postal or express money order***, or any other acceptable payment methods established in administrative regulations promulgated by the board***[~~for the license fee~~]. Promptly upon receipt thereof the board shall pay the same into the State Treasury, giving the Revenue Cabinet copies of the pay-in vouchers and such other supporting data as the Revenue Cabinet may require for revenue control purposes.

Section 13. KRS 243.480 is amended to read as follows:

(1) Upon proceedings for the revocation of any license under KRS 243.520, the Alcoholic Beverage Control Board, or the local alcoholic beverage administrator, may in its or his or her discretion order a suspension of the license for any cause for which it may, but is not required to, revoke the license under the provisions of KRS 243.490 and 243.500. However, the licensee may ***alternatively do either or both of the conditions imposed in paragraphs (a) and (b) of this subsection***[~~have the alternative~~], subject to the approval of the Alcoholic Beverage Control Board or the local alcoholic beverage administrator***:***

(a) [~~, to~~]Pay in lieu of part or all of the days of any suspension period, a sum as follows: Distillers, rectifiers, vintners, brewers, and blenders, one thousand dollars ($1,000) per day; wholesale liquor licensees, four hundred dollars ($400) per day; wholesale beer licensees, four hundred dollars ($400) per day; retail licensees authorized to sell distilled spirits, wine, or beer by the package or drink, fifty dollars ($50) per day; and all remaining licensees, fifty dollars ($50) per day***; or***

(b) Participate in training relating to Kentucky laws on the sale of alcoholic beverages in lieu of part or all of the days of any suspension period. The content of the training and the number of hours required, shall be established in administrative regulations promulgated by the department.

(2) Payments in lieu of suspension collected by the Alcoholic Beverage Control Board shall be deposited in the State Treasury and credited to the general expenditure fund. Payments in lieu of suspension collected by local alcoholic beverage administrators shall be deposited and used as local alcoholic beverage license tax receipts are deposited and used.

(3) Appeals from orders of suspension and the procedure thereon shall be the same as are provided for orders of revocation in KRS Chapter 13B.

Section 14. KRS 244.480 is amended to read as follows:

(1) Except as provided in subsection (3) of this section, no brewer or distributor shall deliver any malt beverages on Sunday or between the hours of midnight and 6 a.m. on any other day.

(2) Except as provided in subsection (3) of this section, no retailer shall sell, give away,[~~ or~~] deliver***, or permit the consumption of*** any malt beverages ***on the licensed premises*** between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday or during the hours the polls are open on a primary or regular election day.

(3) The legislative body of a city of the first, second, third, or fourth class or of a county containing a city of the first, second, third, or fourth class in which traffic in malt beverages is permitted by KRS Chapter 242, shall have the exclusive power to establish the times in which malt beverages may be sold ***or consumed*** within its jurisdictional boundaries, including Sunday sales if the hours so fixed:

(a) Shall not prohibit the sale, gift, or delivery of any malt beverages between 6 a.m. and midnight during any day, except Sunday; and

(b) Prohibit the sale of malt beverages on any primary or regular election day during the hours the polls are open.

(4) For purposes of enforcing this section, it shall not constitute a violation for the retail licensee to allow patrons to consume any malt beverages purchased before closing for a period not to exceed fifteen (15) minutes past the legal closing hour.

Section 15. KRS 244.290 is amended to read as follows:

(1) A premises that is licensed to sell distilled spirits or wine at retail shall not be permitted to remain open during the hours the polls are open on any regular or primary election day unless the licensee provides a separate locked department in which all stock of distilled spirits and wine are kept during the hours the polls are open.

(2) In any county containing a city of the first or second class in which the sale of distilled spirits and wine by the drink is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS Chapter 242.

(3) Except as provided in KRS 243.050, a premise for which there has been granted a license for the sale of distilled spirits or wine at retail shall not remain open for any purposes between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday, unless:

(a) The licensee provides a separate locked department in which all stocks of distilled spirits and wine are kept during those times; or

(b) The legislative body of a city of the first, second, third, or fourth class, or the fiscal court of a county containing a city of the first, second, third, or fourth class, has otherwise established the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries.

(4) In any county[~~ containing a city of the first, second, or third class~~] or any city[~~ located therein~~] in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the legislative body of the city or county may, by ordinance, permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the designated closing hour of that locality at hotels, motels, or restaurants which:

(a) Have dining facilities with a minimum seating capacity of one hundred (100) people at tables; and

(b) ***Are statutorily required to*** receive ***a certain percentage***[~~at least fifty percent (50%) or more~~] of their gross annual income from the dining facilities from the sale of food.

(5) In any county containing a city of the first class or in any city located therein in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the distilled spirits administrator may issue a license to holders of a distilled spirits and wine retail drink quota license or a special private club license which permits the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the prevailing time for that locality.

(6) Any city of the fourth class or county containing a city of the fourth class which has enacted a comprehensive, regulatory ordinance relating to the licensing and operation of hotels, motels, inns, or restaurants for the sale of alcoholic beverages by the drink under KRS 242.185(1), may also regulate and provide for the limited sale of distilled spirits and wine by the drink on Sundays if:

(a) The limited Sunday drink licenses are issued only to those hotels, motels, inns, or restaurants authorized to sell alcoholic beverages by the drink under KRS 242.185(3) ***or any other license authorized by KRS 243.060(1)(c) or 243.070(3) and designated by local ordinance***; and

(b) The holders of distilled spirits and wine retail drink licenses have applied to the state administrator and meet all other legal requirements for obtaining a limited Sunday liquor by the drink license.

(7) For purposes of enforcing this section, it shall not constitute a violation for the retail licensee to allow patrons to consume distilled spirits and wine purchased before closing for a period not to exceed fifteen (15) minutes past the legal closing hour.

Section 16. KRS 243.130 is amended to read as follows:

(1) Sales and deliveries of distilled spirits and wine may be made at wholesale, and from the licensed premises only:

(a) By distillers to rectifiers, vintners, holders of special nonbeverage alcohol licenses so far as they may make the purchases, or other distillers;

(b) By rectifiers to vintners or to distillers if distilled spirits sold to distillers are packaged in retail containers;

(c) By vintners to rectifiers or other vintners, or to the holders of special nonbeverage alcohol licenses;

(d) By distillers, rectifiers or vintners to wholesalers; or

(e) By distillers, rectifiers or vintners for export out of the state.

(2) No distiller, rectifier or vintner shall sell or contract to sell, give away or deliver any alcoholic beverages to any person who is not authorized by the law of the state of his residence, and of the United States government if located in the United States, to receive and possess those alcoholic beverages. No distiller, rectifier or vintner shall sell or contract to sell, give away or deliver any of his products to any retailer or consumer in Kentucky.

(3) Distillers may purchase distilled spirits only from other licensed distillers in this state or in another state or province, but

distillers may purchase from rectifiers licensed in Kentucky, distilled spirits which are packaged in retail containers.

(4) Rectifiers may purchase distilled spirits and wine only from licensed distillers or vintners in Kentucky, or from nonresident distillers or vintners authorized by the law of the state of their residence and by the United States government, if the distillers or vintners are located in the United States, to make the sales.

(5) Vintners may purchase distilled spirits or wine only from licensed distillers or vintners in Kentucky, or from nonresident distillers or vintners authorized by law of the state of their residence, and by the United States government if located in the United States, to make the sales.

(6) Nothing shall prohibit the purchase or sale of warehouse receipts by any person, but this subsection does not authorize the owner of such a receipt to accept delivery of any distilled spirits unless the owner is a person who is permitted by law to receive the same.

(7) Notwithstanding any statutory provision to the contrary, a distiller, brewer, wholesaler, or retailer licensed pursuant to KRS 243.030(7), may donate to a public or private, nonprofit, charitable organization, for the purpose of fundraising events and activities, distilled spirits or wine the license holder possesses under its license to manufacture or sell.

The Committee Amendment No. 1 Title to **SB 123** is as follows:

Amend the title to read as follows: "AN ACT relating to alcoholic beverages.".

SB 195, AN ACT relating to cosmetologists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "funeral establishment" means funeral establishment as defined in KRS 316.010.

(2) Every person holding an active license from the board as a cosmetologist or nail technician, with the exception of a nail technician or cosmetologist exclusively practicing manicuring in a licensed barber shop, shall practice in an establishment licensed by the board.

(3) Notwithstanding the provisions in subsection (2) of this section, persons holding an active license from the board as a cosmetologist or nail technician and who practice in salons licensed by the board shall be permitted to render services for pay, free, or otherwise, to persons who are deceased and in the care of funeral establishments.

(4) Cosmetologists and nail technicians who render services authorized in subsection (3) of this section shall have the permission of the owner or administrator of the establishment where the services are rendered.

SB 234, AN ACT relating to real estate appraisers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 324A.060 is amended to read as follows:

(1) Effective July 1, 1992, the board shall be empowered to employ an executive director and other personnel as may be necessary to discharge the duties imposed by the provisions of KRS 324A.010 to 324A.090. The board shall outline the duties of all personnel and fix their compensation in accordance with KRS Chapter 18A. The board is also empowered to obtain office space, utilities, furniture, supplies, and other goods and services as shall be reasonably necessary for carrying out the provisions of KRS 324A.010 to 324A.090.

(2) Each executive director assuming office after July 15, 2002, shall be a certified general or certified residential real property appraiser and shall possess not less than ten (10) years of experience as an appraiser within the Commonwealth of Kentucky.

The Committee Substitute to **SB 234** is as follows:

SB 234, AN ACT relating to real estate appraisers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 324A.060 is amended to read as follows:

(1) Effective July 1, 1992, the board shall be empowered to employ an executive director and other personnel as may be necessary to discharge the duties imposed by the provisions of KRS 324A.010 to 324A.090. The board shall outline the duties of all personnel and fix their compensation in accordance with KRS Chapter 18A. The board is also empowered to obtain office space, utilities, furniture, supplies, and other goods and services as shall be reasonably necessary for carrying out the provisions of KRS 324A.010 to 324A.090.

(2) Each executive director assuming office after July 15, 2002, shall be a certified general or certified residential real property appraiser and shall possess not less than ten (10) years of experience as an appraiser within the

Commonwealth of Kentucky.

Section 2. KRS 376.075 is amended to read as follows:

(1) Any professional engineer, licensed architect, licensed landscape architect, ***real estate appraiser licensed or certified under KRS Chapter 324A,*** and professional land surveyor who performs professional services or services as defined in KRS 322.010(4) for professional engineers, KRS 323.010(3) for architects, KRS 323A.010(3) for landscape architects, ***KRS 324A.010 for real estate appraisers,*** and KRS 322.010(10) for professional land surveyors shall have a lien on the building, structure, land, or project ***relative to***[~~on~~] which the services were performed, to secure the amount of the charges for services with interest as provided in KRS 360.040 and costs.

(2) The provisions of KRS 376.010(1) and (2) shall determine when a lien created under this section shall take precedence over a mortgage or other contract lien or bona fide conveyance for value without notice.

(3) No person who has not contracted directly with the owner or his agent shall acquire a lien under this section.

(4) Any lien provided for under this section shall be dissolved unless the claimant, within six (6) months after he ceases to provide services, files in the office of the county clerk of the county in which the property is situated a statement of the amount due the claimant, with all just credits and setoffs known to him, together with a description of the property intended to be covered by the lien sufficiently accurate to identify it, the name of the owner, if known, and whether the services were furnished by contract with the owner or with a contractor or architect. This statement shall be subscribed and sworn to by the person claiming the lien or by someone in his behalf.

(5) Any lien created under this section shall be dissolved unless an action is brought to enforce the lien within twelve (12) months from the day of filing the statement in the clerk's office as required by subsection (4) of this section. If the lienholder complies with all filing requirements under this section, and does so within the time fixed, his lien shall be valid and effective against any creditor of, or bona fide or other purchaser from, the owner of the property.

(6) The provisions of this section shall in no way abridge or conflict with the provisions of KRS 376.210 which provide for liens on public improvements, and any potential lien or valid lien of a professional engineer, architect, landscape architect, ***real estate appraiser licensed or certified under KRS Chapter 324A,*** or professional land surveyor on a public improvement shall be governed by KRS 376.210.

Calendar

HCR 244, SCR 49, HCR 130, SB 55, SB 130, SB 203, and **SB 239** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Denham moved that the rules be suspended to grant floor privileges and to act upon a Resolution. Agreed.

Representative Denham moved the adoption of the following **HR 241**:

HR 241, A RESOLUTION adjourning the House of Representatives in honor of Ronnie Fern upon the occasion of his retirement on June 30, 2002, as Superintendent of Fleming County Schools.

WHEREAS, Ronnie Fern graduated from Fleming County High School in 1958, he graduated from Morehead University in 1962 with an A.B. degree and teaching certificate, and he earned his Rank 1 certificate in 1972; and after his college graduation, he taught seventh- and eighth-grade students at Ewing Elementary School in Flemingsburg, where he was hired as Principal in 1968; and in 1972, he was hired as Assistant Superintendent of Fleming County Schools, and he accepted the position of Superintendent in July, 1997; and

WHEREAS, during his forty-year career as an educator, Ronnie Fern has witnessed dramatic changes in school policy, technological advancements within the school system, and improved teaching standards in the Fleming County Schools, and he has also witnessed the increased opportunity for high school students to further their education through support programs, grants, and scholarships; and

WHEREAS, Ronnie Fern is the loving son of Mayme Fern and the late Herbert Fern of Cowan; he is the devoted husband of Wanda Perkins Fern; he is the loving father of two daughters, Ramona Hurd and Kelly Lee, both of Flemingsburg; and he is the proud grandfather of two granddaughters, Natalie Hurd and Emily Hurd, and three grandsons, Travis Lee, Tanner Lee and Stuart Hurd; and

WHEREAS, Ronnie Fern's contribution to the quality of education in the Commonwealth of Kentucky is beyond measure and will have lasting impact, and on June 30, 2002, he will retire as Superintendent of Fleming County Schools;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its appreciation to Ronnie Fern for his accomplishments as an educator and for the distinction he has brought to the Commonwealth of Kentucky. We applaud him for his many years of dedicated service to the Fleming County School system, and we wish to him continued success in all future endeavors.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Ronnie Fern upon the occasion of his retirement on June 30, 2002, as Superintendent of the Fleming County Schools.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. Ronnie Fern, Superintendent of Fleming County Schools, 211 West Water Street, Flemingsburg, Kentucky 41041.

There being no objection **HR 241** was adopted.

Representative Nunn moved that the rules be suspended to grant floor privileges and to act upon a Resolution. Agreed.

Representative Nunn moved the adoption of the following **HR 235**:

HR 235, A RESOLUTION adjourning the House of Representatives in honor of Raymond Loranzo Webb.

WHEREAS, it seems appropriate from time to time for this honorable body to reflect upon the contributions of special Kentuckians who have enriched the lives of so many people; and

WHEREAS, Raymond Loranzo Webb, a native of Harlan County, Kentucky, was born on November 29, 1936, the fifth child of his loving parents, George and Ruby Webb; he is the devoted husband of Jean Anne Gore Webb, a native of Logan, West Virginia, with whom he entered into holy matrimony on June 24, 1960, and he is the loving father of Nell Jean Hughes and Raymond John Webb, and the proud grandfather of Erin Nell Hughes and Grant Ross Hughes; and

WHEREAS, Raymond Loranzo Webb graduated from Harlan High School in 1956; he graduated from Centre College in 1960, and he earned his Teacher Certification from Marshall University in Huntington, West Virginia in 1963; and he further obtained Rank 1 status from Eastern Kentucky University, and continued advanced educational classes at the University of Louisville; and

WHEREAS, throughout his teaching career, Raymond Loranzo Webb was highly respected by his peers and his students, while teaching at Logan County High School from 1960-1964, at Anderson County High School from 1964-1966, and in the Frankfort Independent School District at Second Street Elementary School from 1966-1968, and at Frankfort High School from 1968 until his retirement in 1990, and he is most fondly remembered and appreciated by a former Frankfort High School student, Representative Stephen Nunn; and

WHEREAS, not only was Raymond Loranzo Webb a dedicated teacher, he actively participated in sports, coaching football, basketball, baseball, and wrestling; and he was formerly affiliated with the Kentucky High School Athletic Association (KHSAA) as a football official and as a member of the Wrestling Committee and past co-manager of the State Wrestling Tournament; and during his coaching career, he was twice selected Coach of the Year in the Central Kentucky Conference, he was named 1989 Coach of the Year in the North Central Kentucky Conference, and in 1977, he was named State Class A Coach of the Year; and

WHEREAS, Raymond Loranzo Webb is a highly esteemed member of the Franklin County community where he is a devout member and Elder of First Christian Church, and a former member of the City of Frankfort Board of Adjustments and Zoning; he is a Freemason, and a member of the Oleika Shriner's Temple in Lexington, and the Al Bahr Shriner's Temple in San Diego, California;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives hereby expresses its appreciation to Raymond Loranzo Webb for his accomplishments as an educator, and for the distinction he has brought to the Commonwealth of Kentucky. His contribution to the quality of education in Kentucky is beyond measure and will have lasting impact.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Raymond Loranzo Webb.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Stephen Nunn for presentation to Raymond Loranzo Webb.

There being no objection **HR 235** was adopted.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved to suspend the rules to allow for a Rules Committee Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **SB 13, SB 36, SB 101, SB 113, SB 134, SB 185, SB 197, HB 568, HB 769, HB 781, SB 25, SB 132, HCR 130, HCR 244, SB 130,** and **SCR 49** have been posted for passage in the Orders of the Day for March 21, 2002.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriation and Revenue: **SB 97**

Judiciary: **SB 139**

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 112, SJR 23, SJR 39, SJR 47,** and **SCR 76** have been examined and found correctly enrolled. Said Bill and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:42 p.m.)

Orders of the Day

SB 14 taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **SB 14** be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 20, 2002, roll call on **SB 14** - Appendix.)

SB 14 was passed and the title agreed to.

Representative Geveden moved that the vote by which **SB 14** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 86 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved that **SB 86** be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 20, 2002, roll call on **SB 86** - Appendix.)

SB 86 was passed and the title agreed to.

Representative Thomas moved that the vote by which **SB 86** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Palumbo moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Palumbo moved the adoption of the following **Legislative Citation No. 100**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincere congratulations to the members of the Lexington Catholic High School Knights Basketball Team for phenomenal performance throughout the season which contributed to this remarkable group of athletes winning the 2002 KHSAA District 42 and Region XI Tournaments; advancing to the Sweet Sixteen Tournament for the fifth time in eleven years; capturing the school's first State Championship Title; and finishing the season with a phenomenal record of 33-2. Inasmuch as the members of this celebrated team, under the exceptional guidance of head coach Danny Haney, have demonstrated remarkable talent and dedication to the sport of basketball and, as a result, have brought great honor to their school, community and this great Commonwealth, the members of this honorable body are delighted to join with Representative Ruth Ann Palumbo in applauding the achievements of the Lexington Catholic High School Knights Basketball Team and in extending best wishes to all those who have contributed to the success of this group of phenomenal young athletes. Done in Frankfort, Kentucky, this twentieth day of March, in the year two thousand and two.

Legislative Citation No. 100 was adopted without objection.

Orders of the Day (Continued)

SB 170, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **SB 170**, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 20, 2002, roll call on **SB 170** - Appendix.)

SB 170, was passed and the title agreed to.

Representative Wilkey moved that the vote by which **SB 170**, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 166** was delivered to the Senate and signed by the President. Delivered to the Governor on March 20, 2002, at 2:40 p.m.

Orders of the Day (Continued)

HCR 161, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pasley moved the adoption of Floor Amendment No. 3 to **HCR 161**. Agreed.

Representative Pasley moved that **HCR 161**, as amended be adopted.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 20, 2002, roll call on **HCR 161** - Appendix.)

HCR 161, as amended was adopted.

Representative Pasley moved that the vote by which **HCR 161**, as amended was adopted be reconsidered and said motion be placed on the table. Agreed.

SJR 42 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Baugh moved that **SJR 42** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 20, 2002, roll call on **SJR 42** - Appendix.)

SJR 42 was adopted.

Representative Baugh moved that the vote by which **SJR 42** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 141, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved the adoption of the Committee Substitute to **SB 141**. Agreed.

Representative Riggs moved that **SB 141**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 89, Nays 4**. (See March 20, 2002, roll call on **SB 141** - Appendix.)

SB 141, by way of Committee Substitute, was passed and the title agreed to.

Representative Riggs moved that the vote by which **SB 141**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 125, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **SB 125**. Agreed.

Representative Marzian moved that **SB 125**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93, Nays 1**. (See March 20, 2002, roll call on **SB 125** - Appendix.)

SB 125, by way of Committee Substitute, was passed and the title agreed to.

Representative Marzian moved that the vote by which **SB 125**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 258 with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non concurrence in Senate Amendment. Agreed.

The Senate Committee Substitute to **HB 258**, is as follows:

HB 258, AN ACT relating to the Department of Military Affairs and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

Sections 2, 3, 4, and 5 of this Act may be cited as the Antiterrorism Act of 2002.

SECTION 2. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds that:

(1) No government by itself can guarantee perfect security from acts of war or terrorism.

(2) The security and well-being of the public depend not just on government, but rest in large measure upon individual citizens of the Commonwealth and their level of understanding, preparation, and vigilance.

(3) The safety and security of the Commonwealth cannot be achieved apart from reliance upon Almighty God as set forth in the public speeches and proclamations of American Presidents, including Abraham Lincoln's historic March 30, 1863, Presidential Proclamation urging Americans to pray and fast during one of the most dangerous hours in American history, and the text of President John F. Kennedy's November 22, 1963, national security speech which concluded: "For as was written long ago: 'Except the Lord keep the city, the watchman waketh but in vain.' "

Section 3. KRS 39A.050 is amended to read as follows:

(1) The Division of Emergency Management shall coordinate for the Governor all matters pertaining to the comprehensive emergency management program and disaster and emergency response of the Commonwealth. The division shall be the executive branch agency of state government having primary jurisdiction, responsibility, and authority for the planning and execution of disaster and emergency assessment, mitigation, preparedness, response, and recovery for the Commonwealth; the coordination of all disaster and emergency response by and between all state agencies, all agencies of city, county, and urban-county or charter county government, all local entities, and all political subdivisions of the Commonwealth for an emergency, declared emergency, disaster, or catastrophe as contemplated in KRS 39A.010, 39A.020, or 39A.030; the coordination of, and liaison with, related or concerned federal government agencies, elected officials of other states, private organizations or private sector companies dealing with disaster and emergency response; the coordination of all recovery operations and mitigation initiatives subsequent to disasters or emergencies; and the coordination of all public information activities regarding state government disaster and emergency response operations.

(2) The Division of Emergency Management shall have and exercise the following powers, authorities, and duties:

(a) To develop, administer, and maintain a statewide comprehensive emergency management program for the Commonwealth, and through it an integrated emergency management system for the disaster and emergency response of the Commonwealth, which shall be coordinated with the emergency management programs, and other related public safety, emergency response, mitigation, or disaster recovery programs, of all appropriate federal government agencies including the Federal Emergency Management Agency, *the Office of Homeland Security, the State Department, the Federal Aviation Administration, the Centers for Disease Control and Prevention,* the Department of Transportation, the Environmental Protection Agency, the Occupational Safety and Health Administration, the Department of Defense, the National Oceanic and Atmospheric Administration, the Department of Justice, the Bureau of Alcohol, Tobacco, and Firearms, the National Transportation Safety Board, the Chemical Safety and Hazard Investigation Board, the Army Corps of Engineers, the National Security Council, the Department of Health and Human Services, the Federal Railroad Administration, the United States Geological Survey, the Department of Energy, the Nuclear Regulatory Commission, the Department of Agriculture, the Department of Housing and Urban Development, the American Red Cross, the other states, and other appropriate public or private agencies, to the fullest appropriate extent;

(b) To coordinate the development, implementation, and maintenance of comprehensive emergency management programs by local emergency management agencies in the cities, counties, and urban-county or charter county governments of the Commonwealth to ensure that all such programs, agencies, and organizations are organized, administered, and operated as functional components of the integrated emergency management system of the Commonwealth;

(c) To develop and maintain a comprehensive, risk-based, all-hazards disaster and emergency response plan entitled "Kentucky Emergency Operations Plan," the provisions of which shall establish the organizational structure to be utilized by state government for managing disaster and emergency response, and set forth the policies, procedures, and guidelines for the coordination and execution of all disaster and emergency response for an emergency, declared emergency, disaster, or catastrophe in the Commonwealth. The Kentucky Emergency Operations Plan shall be submitted to the Governor for approval when the Governor assumes office following each gubernatorial election, or at other times as the director deems appropriate. The Governor shall provide written approval of the Kentucky Emergency Operations Plan through issuance of an executive order and the division shall file a copy of the executive order with the Legislative Research Commission. The Kentucky Emergency Operations Plan shall be the primary strategic disaster and emergency response planning component of the integrated emergency management system of the Commonwealth, and shall be utilized and followed by all state agencies, all local government agencies, all local public agencies or entities, and all other political subdivisions of the Commonwealth which may be involved in disaster and emergency response in the Commonwealth. The Kentucky Emergency Operations Plan shall be updated by the division not less than annually;

(d) To maintain and operate the State Emergency Operations Center facility, which shall be the official and primary state government twenty-four (24) hour warning point, communications, and command center, from which the Governor, cabinet secretaries, department heads, and other state agency officials can, at any time, rapidly, adequately, and effectively manage the disaster and emergency response of the Commonwealth. The State Emergency Operations Center facility shall be the primary state direction and control component of the integrated emergency management system of the Commonwealth for the coordination of all disaster and emergency response in the Commonwealth;

(e) To develop, monitor, and operate, on a twenty-four (24) hour per day basis, the appropriate alerting or warning systems, public safety telecommunications systems or radio networks; any state trunked, fiber, or interactive communication systems; computer, fax, other telecommunications or information networks; and systems needed for communication and coordination with all necessary or appropriate federal, state, or local public safety, law enforcement, emergency management, or other disaster and emergency response agencies, and state or local dispatch centers in the Commonwealth, and other appropriate interests, and through these agencies and systems to receive or disseminate emergency information, or to receive timely notification of, and continual assessment of, all threatened or actual emergency incidents or disaster situations occurring anywhere in or near the Commonwealth;

(f) To immediately notify the Governor and the Adjutant General, in the event of any major emergency incidents or disaster occurrences, or the threatened or impending occurrence of any of these events, and to keep the Governor and the Adjutant General informed of all actions being taken in response to these events;

(g) To respond to the scenes of emergencies or disasters, or their threatened or impending occurrence and to directly and immediately investigate, analyze, and assess the nature and seriousness of these situations; to convene meetings, gather information, conduct briefings, and evaluate ongoing emergency response activities; take actions to execute the appropriate provisions of the Kentucky Emergency Operations Plan; coordinate the establishment and operation of a state incident management system; establish or manage sub-state or area emergency operations centers, or on-scene command posts; and fully expedite and coordinate the disaster and emergency response of the Commonwealth;

(h) To establish and operate area field offices of the division, each office to be headed by an area manager, responsible for administering the policies, plans, programs, and duties of the division in specific geographic areas of the Commonwealth, including the coordination of comprehensive emergency management programs developed by the cities, counties, urban-county, or charter county governments in the areas;

(i) To provide funds to the cities, counties, and urban-county or charter county governments of the Commonwealth to support the development, administration, operation, and maintenance of local emergency management agencies created pursuant to KRS Chapters 39A to 39F;

(j) To require the regular submission of program administration data, records, materials, reports, or documents from local emergency management agencies as may be necessary and sufficient to conduct performance reviews and assessments to ensure compliance with all state or federal funding and program requirements, and to ensure local program compatibility and consistency with the mission, goals, and objectives of the comprehensive emergency management program and integrated emergency management system of the Commonwealth;

(k) To ascertain the requirements of the Commonwealth and its cities and counties for emergency resources and the necessities of life in the event of disaster or emergency; institute an emergency resource management plan and procure emergency supplies, materials, and equipment; and use or employ in time of emergency any of the property, services, and resources of state or local government in the Commonwealth for the purposes set forth in KRS Chapters 39A to 39F;

(l) To institute public information and education programs, emergency management training programs, and exercise programs to test and evaluate emergency operations plans and disaster and emergency response and recovery capabilities;~~[and]~~

(m) *To assess the threat of and the Commonwealth's capacity for responding to acts of war or terrorism, including but not limited to nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism;*

(n) To develop a statewide plan and needs assessment for responding to acts of war or terrorism, including but not limited to nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism;

(o) Develop a comprehensive strategy addressing how state and federal funds and other U.S. Department of Justice assistance will be allocated within the state to purchase specialized equipment required to respond to terrorist incidents effectively and safely; and

(p) Establish as a goal to exceed the minimum requirements established by the U.S. Department of Justice, under congressional direction, for state and local governments receiving assistance needed to enhance their capabilities to respond to terrorist attacks. This goal is established in order for the Commonwealth to emerge as a preeminent national leader in preparation and training to address terrorist incidents involving weapons of mass destruction; and

(q) To promulgate administrative regulations to carry out the provisions of KRS Chapters 39A to 39F.

Section 4. KRS 39A.070 is amended to read as follows:

The director, with the approval of the Adjutant General, shall exercise the following powers, responsibilities, and duties:

(1) To represent the Governor on all matters pertaining to the comprehensive emergency management program and the disaster and emergency response of the Commonwealth;

(2) To coordinate the development of a statewide comprehensive emergency management program, and through it, an integrated emergency management system for the disaster and emergency response of the Commonwealth;

(3) To promulgate administrative regulations and issue orders, directives, standards, rules, procedures, guidance, or recommended practices necessary to coordinate the development, administration, organization, operation, implementation, and maintenance of the statewide comprehensive emergency management program and the integrated emergency management system of the Commonwealth;

(4) To coordinate the development of comprehensive emergency management programs by the cities, counties, and urban-county or charter county governments as functional components of the integrated emergency management system of the Commonwealth;

(5) To supervise the development and maintenance of the Kentucky Emergency Operations Plan, and to review and give concurrence to local emergency operations plans required pursuant to KRS Chapters 39A to 39F;

(6) To coordinate the comprehensive emergency management program of the Commonwealth with the emergency management or other emergency response-related programs of the federal government, and of other states, to the fullest appropriate extent;

(7) To advise the Governor and the Adjutant General immediately of the occurrence or threatened or impending occurrence of any disaster or emergency, and to recommend to the Governor any emergency actions, written orders, emergency powers, or executive orders that the Governor should execute;

(8) To serve as the Governor's primary liaison with local officials in the event of the occurrence, or threatened or impending occurrence, of any disaster or emergency in the cities, counties, urban-counties, or charter counties of the Commonwealth;

(9) To take any other preparedness or response actions deemed necessary for adequate response to a disaster or emergency situation to include: requesting increased readiness activities by state or local agencies in advance of an actual disaster or emergency; requesting implementation of local emergency operations plans or the activation of local emergency operations centers; requesting reports from state or local agencies regarding emergency situations, damage assessments, or the taking of emergency response actions; and requesting the mobilization or deployment of any trained and equipped forces of state or local government for the disaster and emergency response purposes set forth in KRS Chapters 39A to 39F;

(10) To request and utilize the personnel, equipment, services, and facilities of existing officers and agencies of the Commonwealth and of all political subdivisions and special districts. All these officers and agencies shall fully cooperate with and extend their resources to the director as requested to the extent that local public safety is not unreasonably compromised;

(11) To employ measures and give directions to the state or local boards of health as necessary for the purpose of securing compliance with the provisions of KRS Chapters 39A to 39F, or with the findings or recommendations of the boards of health, because of conditions arising from disasters, emergency situations, national security emergencies, or the threat thereof;

(12) To request and utilize the services of state and local law enforcement officers for the purpose of securing compliance with

the provisions of KRS Chapters 39A to 39F, or any order of the Governor pertaining to disaster and emergency response;

(13) On behalf of this Commonwealth, with the approval of the Governor or act of the General Assembly, to enter into reciprocal aid agreements or compacts with other states and the federal government, either on a statewide, local, county, or city basis, or with other states or a province of a foreign country. The mutual aid agreements shall be limited to the furnishing or exchange of food, clothing, medicine, and other supplies; engineering services; emergency housing; police services; national guard personnel and resources while under the control of the state; health, medical, and related services; firefighting; rescue; search and rescue or recovery; urban search and rescue; hazardous materials response services, transportation and construction services and equipment; personnel necessary to provide or conduct these services and other supplies, equipment, facilities, personnel, and services as needed; the reimbursement of costs and expenses for equipment, supplies, personnel, and similar items for mobile support units, firefighting, search and rescue, and police units, and health units; and on the terms and conditions deemed necessary;

(14) To sponsor and develop mutual aid plans and agreements among the urban-county or charter county governments, counties, cities, and other political subdivisions and special districts of the Commonwealth, similar to the mutual aid arrangements with other states referred to in subsection (13) of this section;

(15) To procure motor vehicles, radio and telecommunications equipment, protective clothing, safety equipment, and other necessary supplies and materials to meet the emergency response, operational, and administrative needs of the division;

(16) To identify deficiencies existing in the emergency management program organization, facilities, and capabilities of the Commonwealth, including but not limited to: personnel and administrative resources; state, sub-state, area, or local emergency operations centers; mobile command posts; emergency telecommunications and computer systems; alerting and warning systems; stockpiles of critical resources; or any other necessary elements, and to recommend to the Adjutant General, for consideration by the Governor or the General Assembly or other appropriate funding authority, the administrative or operational funding requirements, and long-range capital construction or improvement projects needed to meet the emergency management infrastructure needs of the Commonwealth;

(17) To serve as the state coordinating officer and notify the Governor of the appropriations necessary to fund the expected emergency operational or response costs of the division, and the Commonwealth's share of the grants provided by Pub.L.No. 93-288, Title V, Federal Disaster Assistance Programs as amended by Pub.L.No. 100-707, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or successor Acts or Titles, and further, take action necessary to ensure entitlement to all other federal relief or assistance programs;

(18) To cooperate with the President of the United States, the Federal Emergency Management Agency, and other appropriate federal offices and agencies, and the offices and agencies of other states in matters pertaining to the comprehensive emergency management program of the Commonwealth and nation; and in connection with these, to take any measures considered necessary to implement any request of the President and the appropriate federal offices and agencies, for any action requiring effective disaster and emergency response, including the direction or control and mobilization of disaster and emergency response forces; tests and exercises, warnings, and signals for drills or other emergency response activities and the mechanical devices to be used in connection with these; the shutting off of water mains, gas mains, electric power connections, and the suspension of all other utility services; the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior, and subsequent to a drill, emergency, declared emergency or disaster; public meetings or gatherings; and the evacuation and sheltering of the civilian population;~~[and]~~

(19) *To develop a statewide plan and needs assessment for responding to acts of war or terrorism, including nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism; and*

(20) To delegate any authority vested in the director under KRS Chapters 39A to 39F and to provide for the subdelegation of any such authority.

SECTION 5. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

The Adjutant General, as executive head of the Department of Military Affairs and the Division of Emergency Management, utilizing federal funds and existing agency funds, shall:

(1) Establish and chair an interagency working group comprised of state and private agencies to help identify risks and needs and make a complete assessment of the preparedness of the Commonwealth to respond to acts of war or terrorism, including nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism;

(2) Collaborate with state and participating private agencies to submit a written preliminary report prior to December 31, 2002, to the Governor, the Legislative Research Commission and the Interim Joint Committee on Seniors, Military Affairs, and Public Safety regarding the findings of the assessment of the preparedness of the Commonwealth to respond to acts of war or terrorism, including nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorisms;

(3) Develop and implement statewide strategies to respond to acts of war or terrorism, including nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism based upon the information obtained in the needs assessment;

(4) Provide information explaining how individuals and private organizations, including volunteer and religious organizations, can best prepare for and respond to incidents contemplated by this section and to other threatened,

impending, or declared emergencies and whom to contact should they desire to volunteer help or services during such an emergency. The program shall identify and encourage these private organizations to specifically commit to provide food, shelter, personnel, equipment, materials, consultation and advice, or any other services needed to respond to these incidents; and

(5) Annually assess and update the capability for readiness specified in this section, subject to the continued availability of federal and agency funds. The assessment shall identify the priority of needs, areas of improvement, and the overall progress made in attaining the goals and needs identified in the initial study and in its annual report. The report shall be submitted to the parties specified in subsection (2) of this section not later than December 31 of each year.

Section 6. Whereas the tragic events of September 11, 2001, have demonstrated the immediate need for insuring that the Commonwealth is prepared to deal with terrorism and extraordinary emergencies, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Representative Riner moved that the House concur in Senate Committee Substitute to **HB 258**. Agreed

Representative Riner moved that **HB 258**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**.(See March 20, 2002, Message received on roll call on **HB 258** - Appendix)

HB 258, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Riner moved that the vote by which **HB 258**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 57, HB 98,** and **HB 383** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:12 p.m.)

Orders of the Day (Continued)

HB 339, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non concurrence in Senate Amendments. Agreed.

The Senate Committee Substitute to **HB 339** is as follows:

HB 339, AN ACT relating to continuing care retirement communities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.335 is amended to read as follows:

The establishment of continuing care retirement community nursing home beds under KRS 216B.015, 216B.020, 216B.330, and 216B.332 shall be limited to the time period commencing upon July 14, 2000, and ending ***July 31, 2004***[~~upon the adjournment of the 2002 General Assembly~~]. No further continuing care retirement community nursing home beds shall be established under KRS 216B.015, 216B.020, 216B.330, and 216B.332 without affirmative actions of the General Assembly.

Section 2. KRS 216B.339 is amended to read as follows:

(1) The cabinet shall monitor the establishment of continuing care retirement communities' nursing home beds closely. The cabinet shall collect the following data regarding continuing care retirement communities' nursing home beds:

   (a) The number of applications for a certificate of need to convert nursing home beds to nursing facility beds, the number of beds included in each application, and the number of beds approved;

   (b) The number of applications for Medicaid certification for continuing care retirement communities' nursing home beds, the number of beds included in each application, and the number of beds certified as Medicaid eligible;

   (c) The payor sources for continuing care retirement communities' nursing home beds; and

   (d) The number of each type of bed or living unit within each continuing care retirement community on July 14, 2000, and the number of each type of bed or living unit within each continuing care retirement community on October 31, ***2003***[~~2001~~].

(2) Prior to the beginning of the ***2004***[~~2002~~] Regular Session of the General Assembly, the secretary shall issue a report to the President of the Senate and the Speaker of the House of Representatives, the chair of the Senate Standing Committee on Health and Welfare, and the chair of the House Standing Committee on Health and Welfare addressing the impact of KRS

216B.015, 216B.020, 216B.330, and 216B.332 upon the state's Medicaid budget, consumer access issues, and providers of long-term care.

Section 3. Whereas many seniors desire to continue living in a continuing care retirement community instead of moving to a nursing home, and the current statute permitting continuing care retirement communities to add nursing home beds sunsets at the end of the 2002 Regular Session of the General Assembly, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Representative Damron moved that the House concur in the Senate Committee Substitute to **HB 339**. Agreed.

Representative Damron moved that the House concur in the Senate Committee Amendment No. 1 Title to the Senate Committee Substitute to **HB 339**. Agreed.

The Senate Committee Amendment No. 1 Title to the Senate Committee Substitute to **HB 339** is as follows:

HB 339, By amending the title to read as follows:

"AN ACT relating to continuing care retirement communities and declaring an emergency.".

Representative Damron moved that **HB 339**, by way of Senate Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 20, 2002, roll call on **HB 339** - Appendix.)

HB 339, by way of Committee Substitute by the Senate, was passed.

Representative Damron moved that the vote by which **HB 339**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 77, with Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non concurrence in Senate Amendments. Agreed.

The Senate Floor Amendment No. 1 to **HJR 77** is as follows:

HJR 77, On page 1, after the semicolon at the end of the last "WHEREAS" clause, insert the following:

"and

WHEREAS, the Order of the Purple Heart for military merit is the oldest military decoration in the world in present use; and

WHEREAS, established by General George Washington on August 7, 1782, to honor the common soldier, the Purple Heart is bestowed upon only those individuals who have demonstrated outstanding valor, merit, and unusual gallantry; and

WHEREAS, today the Order of the Purple Heart is awarded in the name of the President of the United States to any member of an Armed Force or any civilian national of the United States who, while serving under competent authority in any capacity with one of the United States Armed Forces, is wounded or killed, or who subsequently dies from wounds received in any action against an enemy of the United States; in any action with an opposing armed force of a foreign country in which the United States Armed Forces are or have been engaged; while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party; as a result of an act of any such enemy of opposing armed forces; as the result of an act of any hostile foreign force; as a result of an international terrorist attack against the United States or a foreign nation friendly to the United States; or as a result of military operations while serving outside the territory of the United States as part of a peacekeeping force; and

WHEREAS, a Purple Heart will be issued to the next of kin of each person entitled to a posthumous award; and

WHEREAS, the Purple Heart is the costliest military decoration awarded with nineteen separate operations required to make it from the rough heart stamped from bronze to the finished medal, plated with gold and enameled in various colors, suspended from a purple and white ribbon; and

WHEREAS, the true price of a Purple Heart is found in the eyes of the wounded who survived to accept the decoration, as well as in the rows of plain white headstones, both here at home and around the world, where they stand as a testimony to the ultimate sacrifice made to protect our freedom and our way of life; and

WHEREAS, every citizen of the Commonwealth owes a great debt of gratitude to the patriotic men and women killed and wounded in service to their country in times of great need; and

WHEREAS, these recipients of the Purple Heart deserve our thanks, recognition, and respect for their devotion and service to our Commonwealth and our nation;"; and

On page 1, after line 6, insert the following new sections:

"Section 3. The Transportation Cabinet is directed to designate Interstate 64 from Ashland to Louisville "The Purple

Heart Trail."

Section 4. The Transportation Cabinet shall immediately begin preparing the appropriate highway signs naming "The Purple Heart Trail" to facilitate their erection upon the effective date of this Resolution at the Kentucky/West Virginia state line, at the Kentucky/Indiana state line, as well as in each county traversed by Interstate 64.

Section 5. In erecting signs on the highways identified in this Resolution, the Transportation Cabinet shall use sheeting signs in lieu of panel signs.

Section 6. The Clerk of the Senate shall transmit a copy of this Resolution to Secretary James Codell, Kentucky Transportation Cabinet, Tenth Floor, State Office Building, Frankfort, KY 40622.".

Representative Colter moved that the House concur in Senate Floor Amendment No. 1 to **HJR 77**. Agreed.

Representative Colter moved that **HJR 77**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 20, 2002, roll call on **HJR 77** - Appendix.)

HJR 77, as amended by the Senate, was passed.

Representative Colter moved that the House concur in the Senate Floor Amendment No. 2 Title to **HJR 77**. Agreed.

The Senate Floor Amendment No. 2 Title to **HJR 77** is as follows:

HJR 77, On page 1, amend the title to read as follows:
"A JOINT RESOLUTION naming various highways.".

Representative Colter moved that the vote by which **HJR 77**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 143, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marcotte moved that **SB 143**, be passed.

Representative A. Arnold moved the adoption of Floor Amendment No. 3 to **SB 143**. Agreed.

Representative Marcotte moved that **SB 143**, as amended, be passed.

On the roll call the vote was: **Yeas 88, Nays 1**. (See March 20, 2002, roll call on **SB 143** - Appendix.)

SB 143, as amended, was passed and the title agreed to.

Representative Marcotte moved that the vote by which **SB 143**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved to suspend the Rules to waive the posting requirement on the following: **SB 289, SCR 185, SJR 156,** and **SB 126.** Agreed.

Representative Stumbo moved that **SB 207** be reassigned to the Committee on Health and Welfare. Agreed.

Representative Stumbo moved that **HB 838** be placed in the Order of the Day. Agreed.

Representative Stumbo moved that the rules be suspended for the Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions (continued)

HR 248, by Representative McKee: A RESOLUTION adjourning the House of Representatives in honor of Anna Meyers Ross McKee upon the occasion of her ninetieth birthday on March 21, 2002.

HR 249, by Representative McKee: A RESOLUTION adjourning the House of Representatives in loving memory and honor of John G. Geoghegan.

HR 250, by Representative Colter: A RESOLUTION urging the Kentucky Board of Education to waive its administrative regulation, 702KAR7:125(4), relating to pupil attendance in order to approve disaster days requested by local school districts that have experienced school closures due to extreme flooding.

HR 251, by Representative Hoover: A RESOLUTION adjourning the House of Representatives in honor of Clear Fork Baptist Church upon the occasion of her two hundredth anniversary on April 1, 2002.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Judiciary: **SB 246, SB 260, SB 262, SB 263, SB 291**

Health and Welfare: **SB 289, SB 207, SCR 185**

Transportation: **SJR 156**

Motions, Petitions, and Communications (Continued)

Representative Colter moved the adoption of the following **HR 250**:

HR 250, A RESOLUTION urging the Kentucky Board of Education to waive its administrative regulation, 702 KAR 7:125(4), relating to pupil attendance in order to approve disaster days requested by local school districts that have experienced school closures due to extreme flooding.

WHEREAS, disastrous flooding in many counties poses extreme and long-term hardships on families who have lost their homes, clothing, and other property; and

WHEREAS, the disastrous flooding has destroyed local businesses, jobs, and roads; and

WHEREAS, school districts will experience extreme financial hardship as a result of the flooding under the current school calendar and financial funding requirements; and

WHEREAS, the recovery from the flooding will take many weeks;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly urges the commissioner of education to recommend to the Kentucky Board of Education that it waive its administrative regulation, 702 KAR 7:125(4), relating to the approval of disaster days in order that the commissioner may approve a request for all disaster days from a school district for those days missed because of flooding above five days missed for that reason during 2002 spring semester.

There being no objection **HR 250** was adopted.

Representative Heleringer moved the adoption of the following **Legislative Citation No. 99**.

The House of Representatives of the Commonwealth of Kentucky hereby honors the Brown School 8th Grade Students upon visiting the Capitol in Frankfort, Kentucky, to view this day's activities of the Regular Session of the 2002 Kentucky General Assembly as part of a three-day, eighth-grade Kentucky Field Trip. The desire to learn more about the history and legislative process of the Commonwealth of Kentucky is a worthwhile pursuit. Therefore, this honorable body is pleased to join with Representative Bob Heleringer in welcoming these esteemed citizens to the Chambers of the House and in extending best wishes for success in all future academic endeavors. Done in Frankfort, Kentucky, this twentieth day of March, in the year two thousand and two.

Legislative Citation No. 99 was adopted without objection.

On the roll call for co-sponsors of Legislative Citation the vote was **Yeas 46, Nays 2**. (See March 20, 2002 roll call to show co-sponsors on **Legislative Citation No. 99** - Appendix)

Representative Vincent moved the adoption of the following **HR 246**:

HR 246, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Elmo Sturgill.

With deepest respect and admiration, we pay homage and tribute to Elmo Sturgill, and we pause in silent reverence for his soul.

WHEREAS, Elmo Sturgill was born on January 3, 1921, a native of Ashland, Boyd County, Kentucky, and he traversed these earthly bounds on March 12, 2002; and

WHEREAS, Elmo Sturgill was the loving son of the late Green and Rosa Thornbury Sturgill, and he was preceded in death by a brother, Ralph Sturgill; he was the devoted husband of Johnie James Sturgill; he was the loving father of two sons, Phillip Green Sturgill and Rockland Mayo George, both of Cannonsburg; he was the proud grandfather of Amanda Sturgill, Jessica George, and Kristina George; and he was the loving brother of William Edward Sturgill of Ashland; and

WHEREAS, Elmo Sturgill was an esteemed member of the Boyd County community where he was an electrical engineer and co-owner of Ashland Electric Company; he served thirty-seven years in the ministry, he was a member of the Kenova Church of Christ, and he served his country with pride and distinction in the United States Army during World War II; and

WHEREAS, the passing of Elmo Sturgill has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Elmo Sturgill, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Elmo Sturgill.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Johnie James Sturgill, 1530 Seventh Street, Route 180, Catlettsburg, Kentucky 41129.

There being no objection **HR 246** was adopted.

Representative Meeks moved the adoption of the following **HR 247**:

HR 247, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Barbara Price-Cordery.

With deepest respect and admiration, we pay homage and tribute to Barbara Price-Cordery, and we pause in silent reverence for her soul.

WHEREAS, Barbara Price-Cordery was born in 1948 in Louisville, Jefferson County, Kentucky, and traversed these earthly bounds in the early hours of Friday, March 15, 2002; and

WHEREAS, Barbara Price-Cordery exhibited outstanding leadership skills, having been the first African-American woman elected as chairperson of the Kentucky Derby Festival, having served as secretary to the Kentucky Derby Festival Board of Directors and chairperson of the "They're Off!" Luncheon Committee, having served as chairperson of the Board of Directors of the Presbyterian Community Center and raising over three million dollars for a new community center, having been a founder of the First African Heritage Weekend Series held on the Belvedere in Louisville, Kentucky, having been a producer of the Miss West Louisville Pageant during the 1970's and 1980's, and having been the first African-American employee of The Voice Newspaper in Louisville, Kentucky; and

WHEREAS, Barbara Price-Cordery proved extraordinary in her other social and professional endeavors as a nine-year board member of the Kentucky Derby Festival, as an esteemed member of the Delta Sigma Theta Sorority (Louisville Alumnae Chapter), as a contributing member of the Doonesbury Political Discussion Group, as a faithful member of Zion Baptist Church, as a distinguished member of the Kiwanis of West Louisville, as earnest volunteer for the Metro United Way, as a passionate worker with "at risk" children within the Jefferson County Public School System, and as a tireless worker with "drug-free" schools and communities in Louisville; and

WHEREAS, Barbara Price-Cordery was a spiritual individual who loved fashion and style, being a part-time fashion model and well known and admired for her love of African attire and Frank Olive hats; and

WHEREAS, Barbara Price-Cordery exhibited so much strength and courage throughout her illness that Pharmacia, manufacturer of a cancer treatment drug, invited her to speak at their national sales meeting and subsequently named their sales award to the salesperson who most typifies what she stood for in dealing with cancer, the "Barbara Price Courage Award," the Doonesbury Political Discussion Group created an educational scholarship fund in her name for the Sudanese refugees known as "The Lost Boys," and the Louisville Section of the National Council of Negro Women awarded her with the 1994 Bethune Community Service Award; and

WHEREAS, Barbara Price-Cordery adored her coworkers and only reluctantly retired from her position as Unit Manager with the Jefferson County Public Schools Head Start Program in 2000, due to her failing health; and

WHEREAS, Barbara Price-Cordery loved and sacrificed for her children, and was the devoted wife of James Cordery, the adored mother of Stacy Robinson and CeSaire Price, the cherished daughter of Rose Hill and stepdaughter of Charles Hill, and the loving sister of Belinda Hill, Donald Chase (Pat) Hill, Gregory Hill, Cedric Hill, and Julius Hill; and

WHEREAS, when we reflect upon the memory of Barbara Price-Cordery, we should be reminded of her great spiritualness and how proud she was to be an African-American woman, and we should be reminded of her gentle, caring, and courageous manner that she demonstrated daily throughout her life, and her passing has left a void that will not be filled, and she is mourned across the length and breadth of the Commonwealth of Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its utter sense of bereavement upon the passing of Barbara Price-Cordery, and extends to her family and many friends its most profound and heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Barbara Price-Cordery.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit copies of this Resolution to James Cordery, 1433 Rosewood Avenue, Apartment 1, Louisville, Kentucky 40204, Stacy Robinson, 4039 Massie Avenue, Louisville, Kentucky 40207, and CeSaire Price, 842 Midway, Louisville, Kentucky 40211.

There being no objection **HR 247** was adopted.

Representative McKee moved the adoption of the following **HR 249**:

HR 249, A RESOLUTION adjourning the House of Representatives in loving memory and honor of John G. Geoghegan.

With deepest respect and admiration, we pay homage and tribute to John G. Geoghegan, and we pause in silent reverence for his soul.

WHEREAS, John G. Geoghegan was born on December 31, 1926, a native of Harrison County, Kentucky, and he traversed these earthly bounds on March 12, 2002; and

WHEREAS, John G. Geoghegan was the loving son of the late Elmer and Urso Geoghegan, and he also was preceded in death by a sister, Mrytle B. Herrington, and a brother, Carlos Geoghegan; he was the devoted husband of Martha Shadd Geoghegan, and he was the loving father of two daughters, Beverly Judy and her husband, Mitchell, and Johnetta Kearns and her husband, Mike, both of Cynthiana, and he was the proud grandfather of Thad Judy, Lora Carpenter and her husband, Rob, John Michael Kearns, and Shelby Kearns, and great-grandsons, Jonathan Nash Carpenter and Jonah Carpenter, and he was the loving brother of a sister, Mary Alice Pumpelly of Columbus, Ohio; and

WHEREAS, John G. Geoghegan was an esteemed member of the Harrison County community; he was a devout member of Indian Creek Christian Church where he served as deacon for thirty-two years; he was retired from the farming and fertilizer business, he was a member of the Central Kentucky Seniors Golf Association, and he served his country with pride and distinction during World War II; and

WHEREAS, the passing of John G. Geoghegan has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of John G. Geoghegan, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of John G. Geoghegan.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Martha Shadd Geoghegan, 599 Kentucky Highway 1298, Cynthiana, Kentucky 41031.

There being no objection **HR 249** was adopted.

Representative Riner moved that the rules be suspended to introduce and act on a resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 252, by Representatives Riner, Richards, Reinhardt, Crall, Riggs, Miller, Stewart, Heleringer, P. Clark, Burch, Treesh, Westrom, and Feeley: A RESOLUTION adjourning the House of Representatives in honor of Carrie Schmidt of Louisville, Kentucky, for her extraordinary commitment and outstanding services as a Christian, college professor, administrator, and public servant over the past twenty-six years.

Motions, Petitions, and Communications (Continued)

Representative Riner moved the adoption of the following **HR 252**:

HR 252, A RESOLUTION adjourning the House of Representatives in honor of Carrie Schmidt of Louisville, Kentucky, for her extraordinary commitment and outstanding services as a Christian, college professor, administrator, and public servant over the past twenty-six years.

WHEREAS, Carrie Schmidt devoted from 1976 to 1980 helping students achieve excellence in the educational field at the Downtown Campus of the University of Louisville as a graduate teaching assistant and received the Graduate Teaching Assistant Award while there; and

WHEREAS, Carrie Schmidt has continued that same outstanding devotion to helping students at the Southwest Campus of Jefferson Community College since 1981 as a mathematics teacher, coordinator of the Southwest Natural Science Learning Lab, assistant of the annual Science Olympiad and organizer of the Kentucky Science Olympiad for middle school students, coordinator of the Southwest Natural Science Learning Lab, member of the selection committee for recipients of summer teaching fellowships, chairwoman of the committee for the school's promotion and tenure committee, and faculty advisor for both the Baptist Student Union and the Student Government Association; and

WHEREAS, Carrie Schmidt has been recognized by the University of Kentucky as the recipient of a Great Teacher Award; and

WHEREAS, Carrie Schmidt, a member of Delta Kappa Gamma, has channeled the same quest for excellence she demonstrated as a student years ago to fostering that organization's goal of recognizing and promoting academic excellence by serving in various leadership and supportive roles--nominating new members, preparing the chapter director and college news and meeting updates, assisting needy women to obtain clothing for job interviews, and raising money for scholarships for women in education; and

WHEREAS, Carrie Schmidt has given countless volunteer hours to the Valley Mammogram Program transporting women to receive free mammograms through the Valley Mammogram Program, and has donated her artistic talents and time to make items for sale to help fund scholarships and community projects through the Valley Women's Club; and

WHEREAS, Carrie Schmidt has tirelessly volunteered her time as a tutor to help children achieve greater educational understanding at Stone Street and Stuart Elementary Schools as well as inventoried books for the Stone Street Elementary School library; and

WHEREAS, Carrie Schmidt was recognized in the year 2000 by Jefferson County Judge Rebecca Jackson with the "Millennium Maker Award for Outstanding Civic Contributions" for her exemplary service to the people of Jefferson County; and

WHEREAS, Carrie Schmidt has also given to others at Epworth United Methodist Church of Louisville, Kentucky, by serving as worship coordinator, a Sunday School teacher, a member of the choir, and a volunteer to deliver meals to shut-ins, and helping with the church meal preparation and cleanup; and

WHEREAS, Carrie Schmidt is a loving wife, proud mother of three, stepmother of two, grandmother of one, and is considered by her colleagues to be the hardest-working woman, wife, mother, teacher, friend, and confidante they have ever encountered; and

WHEREAS, Carrie Schmidt has devoted more than a quarter of a century in selfless and dedicated service to glorify God and enrich the lives of others; and

WHEREAS, by demonstrating a true servant's heart Carrie Schmidt has exemplified the Apostle Paul's admonition to the Church at Rome: "We then that are strong ought to bear the infirmities of the weak, and not to please ourselves. Let every one of us please his neighbour for his good to edification. For even Christ pleased not Himself; but, as it is written, The reproaches of them that reproached Thee fell on me." Romans 15:1-3;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby honor and commend Carrie Schmidt for her many years of dedicated service to the Lord Jesus Christ; her family; the University of Louisville; Jefferson Community College; its faculty, staff, and students; and to the people of Jefferson County. We thank her for her many contributions to further godly virtues, for educational excellence, for inspiring others to share their talents and skills, and for volunteering unending hours to improve the lives of countless residents of the Commonwealth of Kentucky.

Section 2. When the House of Representatives adjourns this 26th day of February in the year of our Lord Jesus Christ 2002, it does so in honor of Carrie Schmidt.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to President Mike McCall, Kentucky Community and Technical College System, 2624 Research Park Drive, P. O. Box 14091, Lexington, Kentucky 40612-4092; Dr. Larry Tyree, Interim President of Jefferson Community College, 109 East Broadway, Louisville, Kentucky 40202; and Representative Frank Rasche, Chairman of the House Education Committee, Room 357-B, Capitol Annex, Frankfort, Kentucky 40601, for presentation to Carrie Schmidt.

There being no objection **HR 252** was adopted.

Representative Denham moved the adoption of the following **Legislative Citation No. 101**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Kenneth W. Brammer upon his 50th Birthday ~Born March 27, 1952 ~ In celebration of this memorable event, the entire membership is pleased to join Representative Mitchel Denham in commending Mr. Brammer for a life lived to the fullest and for the vitality of heart which has brought him thus far. This distinguished body hereby extends best wishes to this highly-regarded recipient on the meaningful occasion of his 50th birthday. Done in Frankfort, Kentucky, this twentieth day of March, in the year two thousand and two.

Legislative Citation No. 101 was adopted without objection.

Representative Gooch moved that **HB 496** be withdrawn. Agreed.

Representative Crall moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Crall moved that he be recorded as voting "yea" on **SB 14** and **SB 86**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **SB 170**. Agreed.

Representative Horlander moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Horlander moved that he be recorded as voting "yea" on **SB 143**. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nesler moved that he be recorded as voting "yea" on **SB 86**. Agreed.

Representative Bratcher moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Bratcher moved that he be recorded as voting "yea" on **HB 507** and **SB 141**. Agreed.

Representative Stein moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Stein moved that her vote be changed from "yea" to "nay" on **HB 258**. Agreed.

Representative Upchurch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Upchurch moved that he be recorded as voting "yea" on **SB 141**. Agreed.

Representative Crimm moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crimm moved that his vote be changed from "nay" to "yea" on **SB 141**. Agreed.

Representative Graham moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Graham moved that he be recorded as voting "yea" on **SB 170** and **HCR 161**. Agreed.

Floor Amendments

Floor Amendment No. 1 to **SB 147**, by Representative Colter:

On page 8, after line 13, by inserting the following:

"Section 3. Whereas many counties have experienced disastrous flooding that has destroyed homes and businesses, closed or destroyed roads, disrupted families and work and which will necessitate school closures for many days, the commissioner of education, notwithstanding any other statute to the contrary or administrative regulation to the contrary, shall approve the request for all disaster days from a school district for those days missed because of flooding above five (5) days missed for that reason during the 2002 spring semester.

Section 4. Whereas school districts must know how to adjust the school calendar for the remaining part of the school year, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.".

Floor Amendment No. 2 Title to **SB 147**, by Representative Colter:

Amend title to read "AN ACT relating to the Kentucky Department of Education and declaring an emergency.".

Floor Amendment No. 1 to **SB 130**, by Representative Burch:

On page 3, between lines 4 and 5, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The Kentucky Center for African-American Heritage in Louisville is designated as the official center for the celebration of Kentucky's African-American heritage."; and

By renumbering the subsequent section accordingly.

Floor Amendment No. 2 Title to **SB 130**, by Representative Burch:

By amending the title to read as follows:

"AN ACT relating to state government."

Floor Amendment No. 1 to the Committee Substitute No. 2 **HB 781**, by Representative Crenshaw:

On page 1, lines 11 and 12, by deleting "***of all persons over the age of eighteen (18) filing resident individual income tax returns***" and inserting in lieu thereof "***of the names and addresses of all persons filing Kentucky resident individual income tax returns***"; and

On page 1, line 22, and on page 2, line 1, by deleting "***Department of Finance and Administration***" and inserting in lieu thereof "***Revenue Cabinet***"; and

On page 2, between lines 11 and 12, by inserting the following:

"***(4) Any person who comes into possession of the Kentucky income tax names and addresses as provided in this section shall be bound by the confidentiality provisions of KRS 131.190.***".

Floor Amendment No. 3 to **SB 130**, by Representative Meeks:

On page 3, between lines 4 and 5 by inserting the following language:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The Kentucky Center for African American Heritage in Louisville is designated as the official center for the celebration of Kentucky's African American heritage."; and

On page 3, line 5, by changing "Section 2" to "Section 3".

Floor Amendment No. 4 Title to **SB 130**, by Representative Meeks:

Amend the title to read as follows: "AN ACT relating to state government."

Floor Amendment No. 12 to the Committee Substitute to **HB 768**, by Representative Lindsay:

On page 117 between lines 5 and 6, to insert the following:

"SECTION 65. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Any provision of this chapter which requires an electronic gaming device license holder or any other category of licensee to be a licensed racetrack or racing association to the contrary notwithstanding, the commission shall also issue any appropriate license required by this chapter to any person or business:

(a) Licensed by the Alcoholic Beverage Control Board to sell alcoholic or malt beverages by the drink and which also serves food on the premises as a part of the business; or

(b) An organization which holds a charitable gaming license.

(2) An applicant for licensure shall pay a license fee in the same amount as the license applied for under any other

provision of this chapter and shall meet all provisions of this chapter with regard to the integrity of the licensee and the employees of the licensee.

(3) A licensee under this section shall have the same rights, duties, and privileges of any other holder of an appropriate license issued pursuant to this chapter with the exception of having to be related to a racetrack or racing association. A licensee under this section shall be subject to the same disciplinary measures as any other licensee under this chapter." and

To renumber the ensuing sections.

Floor Amendment No. 13 to the Committee Substitute to **HB 768**, by Representative Lindsay:

On page 22, line 4, to delete "*For*"; and

On page 22, lines 5 through 8, to delete the same; and

On page 22, line 9, following "*(7)*" to insert the following:

"*No member or agent of the Gaming Commission shall have the powers of a peace officer or have the power to make an arrest. Neither the Governor nor any other public official shall extend peace officer powers to a member or agent of the Gaming Commission.*"; and

On page 46, line 3, following "*chapter shall*" to delete the remainder of the text on that line and to insert in lieu thereof "*be subject to all local zoning ordinances and shall comply with all of the provisions of those ordinances.*"; and

On page 46, lines 4 through 11, to delete the same.

Floor Amendment No. 14 to the Committee Substitute to **HB 768**, by Representative Lindsay:

On page 117 between lines 5 and 6, to insert the following:

"SECTION 65. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) A ten percent (10%) local government service fee is levied on the proceeds which the holder of an electronic gaming device license receives from electronic gaming which is to be used for the cost of defraying service and infrastructure costs which a local government may encounter as a result of an electronic gaming business in the county.

(2) One hundred percent (100%) of the funds received pursuant to subsection (1) of this section shall be paid by the license holder directly to the treasurer of the urban-county government for any electronic gaming business located in an urban-county.

(3) (a) Eighty percent (80%) of the funds received pursuant to subsection (1) of this section shall be paid by the license holder directly to the treasurer of the consolidated local government for any electronic gaming business located in a county with a consolidated local government.

(b) Twenty percent (20%) of the funds received pursuant to subsection (1) of this section shall be paid by the license holder directly to the treasurer of each city located in a county with a consolidated local government in which an electronic gaming facility is located. The funds each city receives shall be a proportional amount of the twenty percent (20%) based on the percentage of population of the city as measured by the population of all cities in the county with a consolidated local government other than the consolidated local government itself.

(4) (a) In a county other than an urban-county or a county with a consolidated local government, fifty percent (50%) of the funds received pursuant to subsection (1) of this section shall be paid by the license holder directly to the treasurer of the county and placed in the general fund of the county where the electronic gaming facility is located.

(b) In a county other than an urban-county or a county with a consolidated local government, fifty percent (50%) of the funds received pursuant to subsection (1) of this section shall be paid by the license holder directly to the treasurer of each city located in the county where an electronic gaming facility is located. The funds each city receives shall be a proportional amount of the fifty percent (50%) based on the percentage of population of the city as measured by the population of all cities in the county. The funds shall be placed in the general fund of the city.

(5) In the event that an electronic gaming facility is located in more than one (1) county then the same fee shall be paid to each county and to the cities located therein as is specified in subsections (2) and (3) of this section.

(6) Any county, urban-county government, consolidated local government, or city which is due funds pursuant to this section may seek the assistance of the Gaming Commission, which assistance shall be provided by the Gaming Commission, in determining the amount of funds due and the collection thereof." and

To renumber the ensuing sections accordingly.

Floor Amendment No. 15 to the Committee Substitute to **HB 768**, by Representative Lindsay:

On page 1, line 1, to page 117, line 16 to delete the same and to insert in lieu thereof:

"Section 1. It is proposed that Section 226 of the Constitution of Kentucky be amended to read as follows:

(1) The General Assembly may establish a Kentucky state lottery and may establish a state lottery to be conducted in cooperation with other states. Any lottery so established shall be operated by or on behalf of the Commonwealth of Kentucky.

(2) The General Assembly may by general law permit charitable lotteries and charitable gift enterprises and, if it does so, it shall:

(a) Define what constitutes a charity or charitable organization;

(b) Define the types of charitable lotteries and charitable gift enterprises which may be engaged in;

(c) Set standards for the conduct of charitable lotteries and charitable gift enterprises by charitable organizations;

(d) Provide for means of accounting for the amount of money raised by lotteries and gift enterprises and for assuring its expenditure only for charitable purposes;

(e) Provide suitable penalties for violation of statutes relating to charitable lotteries and charitable gift enterprises; and

(f) Pass whatever other general laws the General Assembly deems necessary to assure the proper functioning, honesty, and integrity of charitable lotteries and charitable gift enterprises, and the charitable purposes for which the funds are expended.

(3) ***The General Assembly may establish electronic gaming at such facilities as the General Assembly may authorize by law and, if it does so, it shall:***

(a) Define which facilities may engage in electronic gaming;

(b) Define the types of electronic gaming which may be engaged in;

(c) Set standards for the conduct of electronic gaming;

(d) Provide for means of accounting for the amount of money raised by electronic gaming and for assuring the expenditure only for lawful purposes;

(e) Provide suitable penalties for violation of statutes relating to electronic gaming; and

(f) Pass whatever other general laws the General Assembly deems necessary to assure the proper functioning, honesty, and integrity of electronic gaming and the purpose for which the funds are expended.

(4) Except as provided in this section, lotteries and gift enterprises are forbidden, and no privileges shall be granted for such purposes, and none shall be exercised, and no schemes for similar purposes shall be allowed. The General Assembly shall enforce this section by proper penalties. All lottery privileges or charters heretofore granted are revoked.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415."

Floor Amendment No. 16 Title to **HB 768**, by Representative Lindsay:

On page 1, the title to delete the title appearing thereon and to insert in lieu thereof "AN ACT proposing to amend Section 226 of the Constitution of Kentucky to permit electronic gaming."

Floor Amendment No. 5 to **SB 197**, by Representative Stumbo:

On page 2, line 12, after the "*(3)*" delete lines 12 through 26 in their entirety; and

On page 2, line 27, delete the "*(4)*"; and

On page 3, line 5, delete the "*(5)*" and insert in lieu thereof "*(4)*"; and

On page 3, line 7, delete the "*(6)*" and insert in lieu thereof "*(5)*".

Floor Amendment No. 17 to the Committee Substitute to **HB 768**, by Representative Heleringer:

On page 60, line 8, after "*services*" by inserting the following: "***. Of those moneys going to health and human services, one million dollars ($1,000,000) shall be allocated to the supported living services program under KRS 210.770 to 210.795 and one million dollars ($1,000,000) shall be allocated to the personal care assistance program under KRS 205.900 to 205.920. The allocation shall be adjusted upwardly to correspond with increases in the funds set out in paragraph (f) of this section***".

Floor Amendment No. 18 to the Committee Substitute to **HB 768**, by Representative J. Turner:

On page 59, line 22, after the period "*.*" by inserting the following:

"***For each fiscal year an amount equal to the coal severance and processing tax levied under KRS 143.020 shall*** *be retained in the general fund. One and seventy-five hunderds of a percent (1.75%) of the funds described in this paragraph shall be appropriated from the general fund to the wood products development fund created by KRS 154.47-070 and the remainder shall be appropriated as follows:*"; and by deleting the remainder of the line in its entirety

On page 59, line 23, by deleting the line in its entirety and

On page 60, between lines 25 and 26 by inserting the following:

"*Notwithstanding the provisions of KRS 42.4582. 42.4585, 42.4586, and 45.4592, one hundred percent (100%) of the coal severance and processing tax levied under KRS 143.020 shall be deposited to the local government encomic development fund created under KRS 42.4582 and fifteen percent (15%) shall be transferred to the local government economic assistance fund. No coal severance tax money shall be deposited to the wood products development fund.*".

Floor Amendment No. 1 to the Committee Substitute to **SB 203**, by Representative Marzian:

On page 3, line 9, by deleting "*(a)*";

On page 3, line 10, by deleting all new text;

On page 3, by deleting all text on line 14 through line 27;

On page 4, by deleting all text on line 1 through line 3;

On page 4, line 4, by renumbering "SECTION 4" to "SECTION 3".

Floor Amendment No. 2 to the Committee Substitute to **SB 203**, by Representative Burch:

On page 3, line 9, after "(6)" by inserting the following:

"*A personal care home that is assessed a civil monetary penalty for a Type A or Type B citation shall have the amount of the penalty reduced by the dollar amount that the facility can verify was used to correct the deficiency, if:*

(a) The condition resulting in the deficiency citation existed for less than thirty (30) days prior to the date of the citation; or

(b) The facility has not intentionally delayed correcting the deficiency to secure a reduction in a penalty that might subsequently be assessed.

(7)"; and

On page 3, line 9, by deleting "*(a)*"; and

On page 3, line 10, by deleting "*, except for fines collected from personal care homes,*"; and

On page 3, by deleting lines 14 through 20 in their entirety; and

On page 3, line 21, and continuing through page 4, line 3, by deleting Section 3 in its entirety; and

By renumbering the subsequent section accordingly.

Motions, Petitions, and Communications

The following members filed requests to have their names added as co-sponsors of Bills and Resolution:

HB 243, Representative Treesh

HB 677, Representative Stumbo

HB 819, Representative Sims

HCR 161, Representatives Colter and Sims.

Announcements

The following meetings were announced:

Appropriations and Revenue: upon adjournment in Room 131

Local Government: Thursday, March 21, 2002, 9:00 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m. on Thursday, March 21, 2002.

The motion that the House adjourn until 2:00 p.m., Thursday, March 21, 2002, was adopted by voice vote.

THURSDAY, MARCH 21, 2002

FIFTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Mr. W. Tom Hall, Holly Hill Church of Christ, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

Christin Lang, granddaughter of Representative Colter, sang the National Anthem.

The roll was called. All members present except Representative Graham.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Wednesday, March 20, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 248, SB 267, SB 286, HCR 56,** and **HCR 65.**

Message received in regard to **HB 12**: The Senate has passed **HB 12**, by way of Senate Committee Substitute, with Senate Floor Amendment No. 3, and with Senate Committee Amendment No. 1 Title, and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 97**: The Senate has refused to recede from Senate Floor Amendment No. 3 and Senate Floor Amendment No. 4 Title to **HB 97**, and respectfully requests a Conference Committee to be appointed.

Message received in regard to **HB 314**: The Senate has refused to recede from Senate Committee Substitute to **HB 314**, and respectfully requests a Conference Committee to be appointed. (Time: 2:10 p.m.)

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SB 201**

Education: **SB 190**

Local Government: **SB 184**

State Government: **SB 280**

Tourism Development and Energy: **SCR 157**

House Floor: **HR 248, 251**

Report of Committees

The Committee on Rules reported that **SB 41, SB 146, SB 168, SB 187, SB 192, SB 211, SB 230,** and **SCR 34** have been posted for passage in the Orders of the Day for March 22, 2002.

The Committee on Appropriations and Revenue reported **HB 600,** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 600, AN ACT relating to smart growth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 147 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 and Section 12 of this Act:

(1) "Smart growth" and "smart growth principles" mean growth and principles of growth purposefully designed to bring about efficient, safe, healthy, prosperous, and livable communities at the local, regional, and state levels, while enhancing the environment, open space, revitalizing neighborhoods and downtowns, preserving agricultural, historic, and natural resources, making housing more affordable, and improving the quality of life for the Commonwealth's communities for current generations as well as future generations;

(2) "Capital project" means the:

(a) Construction, reconstruction, and acquisition of buildings;

(b) Installation of utility services; and

(c) Acquisition of real property; and

(3) "State agency" means any organizational unit or administrative body in the executive branch of the state government.

SECTION 2. A NEW SECTION OF KRS CHAPTER 147 IS CREATED TO READ AS FOLLOWS:

(1) All state agencies shall promote, assist, and pursue the rehabilitation and revitalization of infrastructure, structures, sites, and areas previously developed and still suitable for economic reuse. That rehabilitation and revitalization, where practicable, shall be considered as an alternative to new facilities or development of new areas with significant value in terms of environmental quality and agricultural, historic, and natural resources.

(2) State agencies responsible for the siting or permitting of infrastructure projects, public facilities, or private development shall seek to minimize the unnecessary loss or depletion of environmental quality and agricultural, historic, and natural resources that might result from that siting and permitting and shall, as a part of each final decision, make an express finding to the state planning committee as to the consistency of the decision with the provisions of Sections 1 to 5 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 147 IS CREATED TO READ AS FOLLOWS:

(1) The state planning committee shall provide support, advice, and recommendations to the Governor's Executive Cabinet regarding the executive cabinet's planning functions under the provisions of KRS 147.070. In addition, the state planning committee shall:

(a) Conduct an initial review of state policies, programs, and infrastructure and capital improvement plans that relate to or affect local land use and make recommendations to the Governor's Cabinet on state policies and programs that may be more supportive of smart growth principles; and

(b) Conduct an ongoing review of all proposed state capital projects, as set out in Section 5 of this Act, for the purpose of providing comment to the appropriate state agency regarding the project's compatibility with local comprehensive plans and impact on historic, agricultural, and natural resources.

(2) (a) The state planning committee shall meet regularly at such times and places as it determines, and it may appoint such subcommittees as may be necessary and appropriate. The state planning committee may apply for and receive moneys from the federal government and from the state or any of its agencies and may contract with any public agency for the performance of services or with professional persons or organizations to carry out its duties. Members of the state planning committee shall serve without pay but shall be reimbursed for the actual and necessary expenses incurred in the performance of their duties. The state planning committee may perform other functions that may be necessary to carry out the purposes of Sections 1 to 5 of this Act.

(b) On or before December 1 of each year, the state planning committee shall prepare and submit to the Governor an annual report of its activities together with any recommendations for legislative and administrative changes it deems appropriate.

SECTION 4. A NEW SECTION OF KRS CHAPTER 147 IS CREATED TO READ AS FOLLOWS:

(1) There is established a state planning assistance office attached to the Office of the Secretary of the cabinet.

(2) The office shall be headed by a director appointed by the secretary of the cabinet, subject to the approval of the Governor. The director may appoint and employ, with the concurrence of the secretary of the cabinet, assistants and other personnel that the director deems necessary to carry out and perform the functions vested in the office and the state planning committee.

(3) The state planning assistance office shall provide staff services for and advise the state planning committee in carrying out its functions and duties.

(4) The state planning director may call upon any of the ex officio members of the state planning committee to provide additional staff assistance as needed.

(5) The state planning assistance office shall:

(a) Encourage, promote, and support the development of countywide planning with regional coordination for

certain elements including human services, agricultural, historic, and natural resources, infrastructure, housing, transportation, and economic development;

(b) Maintain an inventory for state agencies and the public of all local planning units and their existing and proposed plans;

(c) Develop and recommend to the Governor's Cabinet, in coordination with the appropriate agencies, a one (1) stop resource site and referral service to give communities, developers, engineers, policy makers, and citizens easier access to state permitting assistance;

(d) Provide to local governments and local planning units technical assistance with, including, but not limited to, model ordinances, comprehensive plans, master plans, and interlocal agreements, all of which shall be designed to promote smart growth principles and better coordination between planning and infrastructure development;

(e) Create and convene forums on smart growth best practices for public facilities, including schools;

(f) Develop and execute a public education program on smart growth principles; and

(g) Promote training and continuing education opportunities, as required under Section 12 of this Act, in smart growth principles for those involved in planning, including forums where those individuals can share resources and provide technical assistance to each other.

SECTION 5. A NEW SECTION OF KRS CHAPTER 147 IS CREATED TO READ AS FOLLOWS:

(1) (a) No capital project subject to the provisions of KRS 45.151, with a total appropriated capital budget in excess of two million dollars ($2,000,000), except for projects to be located in an area covered by a local comprehensive plan, shall be commenced after the effective date of this Act without prior review by the state planning committee. Any project located in an area covered by a comprehensive plan shall be subject to that plan and the approval of the appropriate local planning authority unless the state planning committee determines in writing that there is an overriding state interest in locating the project in that particular area notwithstanding the decision of the local planning authority. In that case, the determination of the state planning committee shall be final and not subject to further review.

(b) During the planning stage of all other projects subject to its review and before any action is taken to acquire land or commence construction, the state agency proposing the project shall submit a report to the state planning committee. The report shall explain the project, address the manner in which the location of the project was determined, including the extent to which the location will be in an area already developed with infrastructure already in place and if not, the reasons for not choosing such a location.

(c) All such projects shall be located, to the extent feasible, in a manner that takes advantage of existing infrastructure, preserves open spaces, agricultural resources, and historic or environmentally sensitive areas and provides accessibility through a variety of means. The design shall be compatible, to the extent feasible, with the existing environment in the area where the facility is located.

(2) (a) The state planning committee shall also review all proposed state projects which require the acquisition and development of fifty (50) or more acres of farmland of statewide agricultural importance, as identified under the procedure set forth in KRS 246.065, to nonfarm use. The review shall consider alternatives to the project proposal in an effort to balance the public purpose to be served by the state project against the public purpose of conserving productive farmland.

(b) During the planning stage of the project and before any action is taken to acquire the farmland, the state agency shall submit a report to the state planning committee. The report shall explain the project, contain an agricultural impact assessment, highlight the location of land that is intended to be acquired, present the reasons for needing the land, and explain the reasons for rejecting alternatives to the proposed project.

(c) All state projects covered by this subsection shall be located to provide minimal interference with the productivity of agricultural lands to the extent feasible.

(3) In its review of projects under this section, the chair of the state planning committee may appoint two (2) additional ad hoc members from the impacted county. The first ad hoc member shall be a representative of the planning commission with jurisdiction over the area in which a project subject to state planning committee approval is proposed to be located or, if the area is not within the jurisdiction of a planning commission, the county judge/executive of the county in which the project is proposed to be located. The second ad hoc member shall be a resident of the county in which the project is proposed to be located and, if the project requires the acquisition of fifty (50) or more acres of farmland, be a representative of the agricultural community.

(4) If the state planning committee conducts a review of a proposed state project under the provisions of this section, it shall provide notice of the proposed project to the local community by publishing the notice in the newspaper of greatest local circulation within thirty (30) days after receiving the report. The notice shall solicit comments on the proposal and state that a public hearing shall be held upon a request received within thirty (30) days of the last published notice. If requested, the public hearing shall be held within thirty (30) days after receiving the request. The hearing required by this subsection shall not be construed to be an adjudicative hearing covered by KRS Chapter 13B. No later than thirty (30) days after the hearing, the state planning committee shall file its report and any

recommendations to the Governor's Cabinet. The Governor's Cabinet may require the agency proposing the project to alter the project, if necessary, to resolve inconsistencies between the project and any applicable local comprehensive plan, or if there is no local comprehensive plan, to resolve inconsistencies between the project and smart growth principles.

SECTION 6. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

As used in Section 7 of this Act:

(1) "Certified home" means a qualified home on which construction has been completed that has been certified by the executive director of the Kentucky Heritage Council as meeting the historic infill design guidelines promulgated by the executive director;

(2) "Certified historic structure" means a structure that is located within the Commonwealth of Kentucky and is:

(a) Listed in the National Register of Historic Places; or

(b) Located in a historic district listed in the National Register of Historic Places and is certified by the executive director as being of historic significance to the district;

(3) "Certified rehabilitation" means a completed substantial rehabilitation of a certified historic structure that the executive director has certified as meeting the Standards for Rehabilitation of the United States Secretary of the Interior;

(4) "Qualified construction expenditure" means any amount of money expended in connection with the construction of a certified home, but shall not include the cost of acquisition of the underlying land, landscaping, or personal property;

(5) "Qualified rehabilitation expenditure" means, as it relates to paragraph (a) of subsection (1) of Section 7 of this Act, twenty-five percent (25%) of the amount that is properly chargeable to a capital account, whether or not depreciation is allowable under Section 168 of the Internal Revenue Code, and is expended in connection with the certified rehabilitation of a certified historic structure, including the cost of restoring, landscaping, and fencing that contributes to the historic significance of the structure, but shall not include the cost of acquisition of a certified historic structure, enlargement of, or additions to, an existing building or personal property;

(6) "Substantial rehabilitation" means rehabilitation of a certified historic structure for which the qualified rehabilitation expenditures, during the twenty-four (24) month period selected by the person to which the credit provided in subsection (1) of Section 7 of this Act is allowed ending with or within the taxable year, exceeds for owner-occupied residential property twenty thousand dollars ($20,000); or, for all other property, the greater of the adjusted basis of the structure, or twenty thousand dollars ($20,000). In the case of any rehabilitation which may reasonably be expected to be completed in phases set forth in architectural plans and specifications completed before the rehabilitation begins, a sixty (60) month period may be substituted for the twenty-four (24) month period provided for in this subsection;

(7) "Person" means any:

(a) Individual;

(b) Business entity, in whatever form;

(c) Nonprofit organization having tax exempt status under Section 501 (c)(3) of the Internal Revenue Code;

(d) Estate or trust;

(e) Political subdivision of the Commonwealth of Kentucky; and

(f) State or local agency, board, commission, or quasi-governmental entity;

(8) "Kentucky taxes" means taxes assessed under KRS 136.300, 136.310, 136.505, 141.020, and 141.040;

(9) "Owner-occupied residential property" means a building or portion thereof occupied as the owner's principal residence and includes a condominium or cooperative;

(10) "Qualified purchased historic home" means any substantially rehabilitated certified historic structure if:

(a) The person claiming the tax credit provided for in Section 7 of this Act is the first purchaser of the structure after the date of completion of the rehabilitation;

(b) The structure, or portion thereof, will, within a reasonable period, be the principal residence of the person; and

(c) No credit was allowed to the seller under Section 7 of this Act;

A qualified purchased historic home shall be deemed owner-occupied residential property for all purposes under Section 7 of this Act;

(11) "Qualified home" means an owner-occupied single-family dwelling including the residential portion of a mixed-use property, or an addition to, or enlargement of, an existing owner-occupied single-family dwelling constructed after the effective date of this Act is:

(a) Located within the Commonwealth of Kentucky;

(b) Sold to the first purchaser of the dwelling for use as the principal residence of the purchaser;

(c) Located in a historic district listed in the National Register of Historic Places; and

(d) Except in the case of an addition to, or enlargement of, an existing structure, constructed on land on which no structure has existed for the preceding twenty-four (24) month period, other than a structure that the executive director has determined:

1. Is not of historic importance;

2. Does not contribute to the historic character of the historic district in which it was located; or

3. Is not otherwise worthy of preservation as a building of unique architectural significance;

(12) "Executive director" means the executive director of the Kentucky Heritage Council; and

(13) "Cabinet" means the Kentucky Revenue Cabinet.

SECTION 7. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) Any person shall be allowed a nonrefundable credit against Kentucky taxes for the taxable year in which a certified rehabilitation is completed in an amount equal to:

(a) Thirty percent (30%) of the person's qualified rehabilitation expenditures, in the case of owner-occupied residential property, subject to a maximum credit of sixty thousand dollars ($60,000), or thirty thousand dollars ($30,000) in the case of a married individual filing a separate return; or

(b) Twenty percent (20%) of the person's qualified rehabilitation expenditures, in the case of all other property, subject to a maximum credit of twenty thousand dollars ($20,000), or ten thousand dollars ($10,000) in the case of a married individual filing a separate return.

(2) A taxpayer shall be allowed a nonrefundable credit against Kentucky taxes for the taxable year in which a certified home is sold for use as the principal residence of the purchaser in an amount equal to ten percent (10%) of the taxpayer's qualified construction expenditures made with respect to the certified home. The credit allowed under this section shall not exceed twenty thousand dollars ($20,000), or ten thousand dollars ($10,000) in the case of a married individual filing a separate return, with respect to any certified home.

(3) No credit shall be allowed with respect to a structure located on land on which an existing structure has been demolished within the preceding twenty-four (24) month period, unless the executive director makes a finding that the demolished structure:

(a) Was not of historic importance;

(b) Did not contribute to the historic character of the historic district in which it was located; or

(c) Was not otherwise worthy of preservation as a building of unique architectural importance.

(4) If the credit allowed under this section in any taxable year exceeds the total Kentucky taxes payable by the person entitled to claim the credit for that taxable year, if any, the person may apply the excess as a credit in each succeeding taxable year until the earlier of:

(a) The taxable year in which the full amount of the excess is used; or

(b) The expiration of the seventh taxable year after the taxable year in which the certified rehabilitation has been completed.

(5) Any tax credit allowed under this section may be transferred, sold, or assigned. Each transferor of the tax credits shall give notice of the transfer to the Kentucky Revenue Cabinet in the form approved by the cabinet within thirty (30) calendar days of the effective date of the transfer. A transferee, purchaser, or assignee may use acquired credits to offset Kentucky taxes for the taxable year in which the transfer is effective and may apply an excess as provided in subsection (4) of this section. A transferee, purchaser, or assignee of a tax credit allowed under this section shall be entitled to rely in good faith on the information contained in, or used in connection with obtaining, the certification of the executive director including, without limitation, the amount of qualified rehabilitation expenditures.

(6) In the case of a qualified purchased historic home, the purchaser shall be treated as on the date of purchase having made the expenditures made by the seller of the building which would be qualified rehabilitation expenditures had the expenditures been made by the purchaser.

(7) No Kentucky taxes shall be incurred as a result of the transfer, sale, assignment, or use of a tax credit allowed under this section.

(8) For the purposes of this section, a lessee of a certified historic structure shall be treated as the owner of the structure if the remaining term of the lease is not less than the minimum period prescribed by administrative regulation.

(9) Any person who performs disqualifying work on a certified historic structure for which a rehabilitation has been certified under this section shall be subject to a penalty in the amount of one hundred percent (100%) of the tax credit allowed on the rehabilitation. For the purposes of this section, "disqualifying work" means work that is performed within three (3) years after the completion of the certified rehabilitation, and if performed as part of the rehabilitation certified under this section would have made the rehabilitation ineligible for certification.

(10) Any owner of a certified home who performs disqualifying work on the certified home shall be subject to a penalty in the amount of one hundred percent (100%) of the tax credit allowed on the certified home. For the purposes of this section, "disqualifying work" means work that is performed within three (3) years after the certification of the certified

home, and if performed as part of the construction certified under this section would have made the structure ineligible for certification.

(11) The executive director may impose fees for the processing of applications for tax credits, but the proceeds of the fees may be used only to defray the expenses associated with the processing of the applications.

(12) The executive director may promulgate any administrative regulations in accordance with the provisions of KRS Chapter 13A as the executive director deems appropriate to carry out the purposes of this section.

(13) The executive director may authorize a local government to perform an initial review of applications for the credit allowed under this section, and to forward the applications to the executive director with its recommendations.

(14) The provisions of this section shall apply to certified rehabilitations and certified homes for which an application was filed with the executive director on or after the effective date of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

(1) As used in this section and Sections 9 and 10 of this Act:

(a) "Approved buyer" means a first-time home buyer whose family income is at or below eighty percent (80%) of the area median income for the Commonwealth as determined by the United States Department of Housing and Urban Development;

(b) "Approved area" means an area that meets the description contained in KRS 99A.020 regardless of whether it has been declared a neighborhood redevelopment zone;

(c) "Depressed property" means a single-family residence that is in need of repair, is abandoned, or is otherwise substandard or unsanitary, that requires at least twenty thousand dollars ($20,000) in rehabilitation expenditures and that can reasonably be expected to appraise for eighty thousand dollars ($80,000) or less when reconstructed or repaired, or shall mean a vacant lot in an approved area on which a single-family residence will be built that can reasonably be expected to appraise for eighty thousand dollars ($80,000) or less when completed. The eighty thousand dollar ($80,000) limitation shall be adjusted by the executive director of the Kentucky Housing Corporation on July 1 of each year based upon any increase or decrease in the Consumer Price Index in the preceding calendar year;

(d) "Contractor" means any entity that makes improvements to a single-family residence under this section and Sections 9 and 10 of this Act; and

(e) "Cabinet" means the Kentucky Revenue Cabinet.

(2) There is hereby created the "Neighborhood Redevelopment Housing Award Program" governed by this section and Sections 9 and 10 of this Act, to be administered by the executive director of the Kentucky Housing Corporation.

(3) An approved buyer of a depressed property in an approved area shall be eligible for a neighborhood redevelopment housing award in an amount equal to ten percent (10%) of the appraised value of the renovated property.

(4) An approved award shall be paid to, or on behalf of, the buyer at the time of the purchase of the property by the contractor. The contractor shall be reimbursed for the amount of the award by claiming the credit in Section 9 or 10 of this Act.

(5) An approved buyer who receives an award under this program shall agree to restrictions on the sale of the property if it is resold within ten (10) years. If the property is sold within ten (10) years, the selling price shall not exceed the appraised value on which the award was computed, plus any additional improvements, increased by five percent (5%) for each year, or part thereof, the property was owned by the approved buyer, and the approved buyer shall repay to the Kentucky Housing Corporation the amount determined in subsection (3) of this section. If the property is not sold within ten (10) years, no part of the award shall be required to be repaid, and no restriction shall be placed on the selling price.

(6) An application for an award shall be submitted by the contractor to the Kentucky Housing Corporation. The Kentucky Housing Corporation shall advise the contractor if the award is approved before the sale of the approved property is completed.

(7) The maximum amount of awards to be approved by the Kentucky Housing Corporation under this section shall be two million dollars ($2,000,000) per year.

SECTION 9. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) There is allowed a nonrefundable credit against the tax imposed by KRS 141.020 and 141.040 for an entity making awards under the Neighborhood Redevelopment Housing Award Program described in Section 8 of this Act. The amount of the credit shall be equal to the amount of approved awards determined under Section 8 of this Act. Any credit in excess of the current year liability may be carried forward indefinitely.

(2) Any tax credit allowed under this section may be transferred, sold, or assigned. Each transferor of the tax credits shall give notice of the transfer to the Kentucky Revenue Cabinet in the form approved by the cabinet within thirty (30) calendar days of the effective date of the transfer. A transferee, purchaser, or assignee may use acquired credits to offset Kentucky taxes for the taxable year in which the transfer is effective and may apply an excess as provided in subsection (1) of this section. A transferee, purchaser, or assignee of a tax credit allowed under this section shall be

entitled to rely in good faith on the information contained in, or used in connection with obtaining, the certification of the executive director.

Section 10. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020 or 141.040, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3);

(b) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

(c) The health insurance credit permitted by KRS 141.062;

(d) The tax paid to other states credit permitted by KRS 141.070;

(e) The credit for hiring the unemployed permitted by KRS 141.065;

(f) The recycling or composting equipment credit permitted by KRS 141.390;

(g) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263;

(h) ***The neighborhood redevelopment housing credit permitted by Section 9 of this Act;***

(i) The tax credits for certified rehabilitation or construction permitted under Section 7 of this Act;

(j) The low income credit permitted by KRS 141.066;

(k)[~~(i)~~] The household and dependent care credit permitted by KRS 141.067; and

(l)[~~(j)~~] The coal incentive credit permitted under KRS 141.0405.

The tax credits referred to in paragraphs (h) and (i) of this subsection may be taken commencing with the tax year following the year the credits are initially approved or awarded.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350; and

(b) The individual estimated tax payment credit permitted by KRS 141.305.

(3) The nonrefundable credits against the tax imposed by KRS 141.040 shall be taken in the following order:

(a) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

(b) The health insurance credit permitted by KRS 141.062;

(c) The unemployment credit permitted by KRS 141.065;

(d) The recycling or composting equipment credit permitted by KRS 141.390;

(e) The coal conversion credit permitted by KRS 141.041;

(f) The enterprise zone credit permitted by KRS 154.45-090;

(g) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263;[~~ and~~]

(h) The coal incentive credit permitted under KRS 141.0405***;***

(i) The neighborhood redevelopment housing credit permitted by Section 9 of this Act; and

(j) The tax credits for certified rehabilitation or construction permitted under Section 7 of this Act.

(4) After the application of the nonrefundable credits in subsection (3) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the tax imposed by KRS 141.040.

Section 11. KRS 147.075 is amended to read as follows:

(1) As used in KRS 147.070 to 147.120 the term "Governor's Cabinet" shall mean the "Governor's Executive Cabinet" and such other persons as the Governor may designate to compose the membership of the "State Planning Committee." The ***secretary of the Governor's Executive Cabinet***[~~Governor~~] shall serve as chairman of the State Planning Committee, the secretary of the ***Finance and Administration*** Cabinet[~~ for Economic Development~~] shall serve as vice chairman, and the ***director of the Governor's Office of State Budget Director***[~~special assistant to the Governor for budget and management~~] shall serve as secretary.

(2) The following individuals shall serve as ex officio members of the state planning committee:

(a) The secretary of the Governor's Executive Cabinet;

(b) The secretary of the Finance and Administration Cabinet;

(c) The secretary of the Cabinet for Economic Development;

(d) The secretary of the Education, Arts, and Humanities Cabinet;

(e) The secretary of the Natural Resources and Environmental Protection Cabinet;

(f) The secretary of the Tourism Development Cabinet;

(g) The secretary of the Transportation Cabinet;

(h) The commissioner of the Department for Local Government; and

(i) The director of the Governor's Office of State Budget Director.

Section 12. KRS 147A.027 is amended to read as follows:

(1) (a) Each planning commissioner and board of adjustment member of a planning unit shall, within one (1) year prior to appointment, or within one hundred twenty (120) days of appointment, attend a minimum of four (4) hours of orientation training in one (1) or more of the subjects listed in subsection (4) of this section.

(b) Each planning professional, zoning administrator, and administrative official, and each planning professional's deputies and assistants, shall, within one (1) year prior to being employed, or within one hundred twenty (120) days of employment, attend a minimum of eight (8) hours of orientation training in one (1) or more of the subjects listed in subsection (4) of this section.

(c) Each of the individuals listed in paragraphs (a) and (b) of this subsection shall certify his or her attendance by a written statement filed with the secretary of his or her respective planning commission within one hundred forty (140) days of appointment or employment. Each statement shall identify the date of each program attended, its subject matter, location, sponsors, and the time spent in each program.

(2) (a) Each planning commissioner and board of adjustment member of a planning unit shall, within each period of two (2) consecutive calendar years, starting at the date of the individual's appointment, attend no less than eight (8) hours of continuing education in any of the subjects listed in subsection (4) of this section.

(b) Each planning professional, zoning administrator, and administrative official, and each planning professional's deputies and assistants, shall, within each period of two (2) consecutive calendar years, starting at the date of the individual's appointment, attend no less than sixteen (16) hours of continuing education in any of the subjects listed in subsection (4) of this section.

(c) Each of the individuals listed in paragraphs (a) and (b) of this subsection shall certify his or her attendance by a written statement filed with the secretary of his or her respective planning commission by December 31 of each calendar year. Each statement shall identify the date of each program attended, its subject matter, location, sponsors, and the time spent in each program.

(3) The planning commission or the legislative body of the city, county, urban-county, charter county government, or consolidated local government in which the planning commission has jurisdiction or, in the case of a joint planning unit, has representation in, shall be responsible for providing training as required by subsections (1) and (2) of this section or for providing funding to each planning commissioner, board of adjustment member, full-time planning professional, zoning administrator, administrative official, and planning professional's deputies or assistants so that each individual may obtain training as required by subsections (1) and (2) of this section from other sources.

(4) The subjects for the education required by subsections (1) and (2) of this section shall include, but not be limited to, the following: land use planning; ***smart growth principles;*** zoning; floodplains; transportation; community facilities; ethics; public utilities; wireless telecommunications facilities; parliamentary procedure; public hearing procedure; administrative law; economic development; housing; public buildings; building construction; land subdivision; and powers and duties of the board of adjustment. Other topics reasonably related to the duties of planning officials or planning professionals may be approved by majority vote of the planning commission prior to December 31 of the year for which credit is sought.

(5) Each local planning commission shall keep in its official public records originals of all statements and the written documentation of attendance required in subsection (6) of this section filed with the secretary of the planning commission pursuant to subsections (1)(c) and (2)(c) of this section for three (3) years after the calendar year in which each statement and appurtenant written documentation is filed.

(6) Each planning commissioner, board of adjustment member, full-time planning professional, zoning administrator, administrative official, and planning professional's deputies or assistants shall be responsible for obtaining written documentation signed by a representative of the sponsor of any continuing education course for which credit is claimed, acknowledging the fact that the individual attended the program for which credit is claimed. That documentation shall be filed with the secretary of the planning commission as attachments to the statements required by subsections (1)(c) and (2)(c) of this section.

(7) If a planning commissioner or board of adjustment member fails to:

(a) Complete the requisite number of hours of orientation training and continuing education within the time allotted under subsections (1) and (2) of this section;

(b) File the statement required by subsections (1)(c) and (2)(c) of this section; or

(c) File the documentation required by subsection (6) of this section;

the planning commissioner shall be subject to removal from office according to the provisions of KRS 100.157, and the board of adjustment member shall be subject to removal according to the provisions of KRS 100.217.

(8) No city, county, urban-county, charter county, consolidated local government, planning commission, board of adjustment, or any entity performing local planning under KRS Chapter 100, shall employ a planning professional, zoning

administrator, administrative official, or a planning professional's deputy or assistant, who fails to complete the requisite number of hours of orientation and continuing education required by subsections (1) and (2) of this section in the capacity of a planning professional, zoning administrator, administrative official, or planning professional's deputy or assistant.

Section 13. KRS 147A.125 is amended to read as follows:

(1) Except as set forth in subsection (8) of this section, each area development district shall establish a regional planning council to act in an advisory capacity on planning matters throughout the district.

(2) The regional planning council shall be composed of one (1) representative from each planning unit in the area development district ***and the county judge/executive, or the judge's designee, of any county in the district that does not have a county-wide planning unit***. Each representative shall be appointed annually by the planning commission of each planning unit in the district. To be eligible for appointment to the council, a person shall be a member of the planning commission, or the planning commission's professional staff.

(3) At its first regular meeting in each year, the council shall elect from its membership a president and vice president. The vice president shall have the authority to act as president of the council during the absence or disability of the president.

(4) The council shall meet at the call of the president, but at least quarterly in each year.

(5) To insure compatible treatment of planned development throughout the district, the council may review comprehensive plans of planning units within the district for regional impact, may develop regional transportation, infrastructure, and land use plans for the district, and may make recommendations regarding the regional impact of proposed comprehensive plans and plan amendments of planning units within the district. ***All the recommendations shall be reviewed by the respective area development district's board of directors to ensure compatibility with regional plans and activities.***

(6) The area development district shall provide staff and technical support as requested by the council. Existing land use planning services and functions of the area development district shall be placed under the direction and control of the council.

(7) The council may offer training and education opportunities in the area of planning and zoning matters to planning commission members and staff in the district.

(8) The requirements of this section shall not apply to any area development district in which fifty percent (50%) or more of the population resides in cities or counties which participate in a regional planning authority, council of governments, or other agency which is authorized to perform regional planning functions as described in this section.

Section 14. The following KRS section is repealed:

262.875 Interagency Farmland Advisory Committee.

The Committee Substitute to **HB 600** is as follows:

HB 600, AN ACT relating to smart growth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 147 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act:

(1) "Capital project" means the:

(a) Construction, reconstruction, and acquisition of buildings using state funds;

(b) Acquisition of real property using state funds; and

(2) "State agency" means any organizational unit or administrative body in the executive branch of the state government.

SECTION 2. A NEW SECTION OF KRS CHAPTER 147 IS CREATED TO READ AS FOLLOWS:

(1) All state agencies shall encourage the rehabilitation and revitalization of infrastructure, structures, sites, and areas previously developed and still suitable for economic reuse. For capital projects rehabilitation and revitalization, where practicable, shall be considered as an alternative to new state facilities or development of new areas with significant value in terms of agricultural, historic, and natural resources.

(2) State agencies responsible for the siting or permitting of state projects shall seek to minimize the unnecessary loss or depletion of agricultural, historic, and natural resources that will result from that siting and permitting and shall, as a part of each final decision, make an express finding to the state planning committee as to the consistency of the decision with the provisions of Sections 1 to 5 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 147 IS CREATED TO READ AS FOLLOWS:

(1) The state planning committee shall provide support, advice, and recommendations to the Governor's Executive Cabinet regarding the executive cabinet's planning functions under the provisions of KRS 147.070. In addition, the state planning committee shall:

(a) Conduct an initial review of state policies, programs, and capital improvement plans related to capital projects that affect local land use and make recommendations to the Governor's Cabinet on state policies and

programs; and

(b) Conduct an ongoing review of all proposed state capital projects, as set out in Section 5 of this Act, for the purpose of providing comment to the appropriate state agency regarding the project's compatibility with local comprehensive plans and impact on historic, agricultural, and natural resources.

(2) (a) The state planning committee shall meet regularly at such times and places as it determines, and it may appoint such subcommittees as may be necessary and appropriate. The state planning committee may apply for and receive moneys from the federal government and from the state or any of its agencies and may contract with any public agency for the performance of services or with professional persons or organizations to carry out its duties. Members of the state planning committee shall serve without pay but shall be reimbursed for the actual and necessary expenses incurred in the performance of their duties.

(b) On or before December 1 of each year, the state planning committee shall prepare and submit to the Governor an annual report of its activities together with any recommendations for legislative and administrative changes it deems appropriate.

SECTION 4. A NEW SECTION OF KRS CHAPTER 147 IS CREATED TO READ AS FOLLOWS:

(1) There is established a state planning assistance office attached to the Office of the Secretary of the cabinet.

(2) The office shall be headed by a director appointed by the secretary of the cabinet, subject to the approval of the Governor. The director may appoint and employ, with the concurrence of the secretary of the cabinet, assistants and other personnel that the director deems necessary to carry out and perform the functions vested in the office and the state planning committee.

(3) The state planning assistance office shall provide staff services for and advise the state planning committee in carrying out its functions and duties.

(4) The state planning director may call upon any of the ex officio members of the state planning committee to provide additional staff assistance as needed.

(5) The state planning assistance office shall:

(a) Encourage, promote, and support the development of countywide planning with regional coordination for certain elements including human services, agricultural, historic, and natural resources, infrastructure, housing, transportation, and economic development;

(b) Maintain an inventory for state agencies and the public of all local planning units and their existing and proposed plans;

(c) Develop and recommend to the Governor's Cabinet, in coordination with the appropriate agencies, a one (1) stop resource site and referral service to give communities, developers, engineers, policy makers, and citizens easier access to state permitting assistance;

(d) Provide local governments and local planning units with technical assistance, including assistance with model ordinances, comprehensive plans, master plans, and interlocal agreements, all of which shall be designed to promote better coordination between planning and infrastructure development;

(e) Create and convene forums on best practices for the siting of public facilities, including schools;

(f) Develop and execute a public education program on land use practices; and

(g) Promote training and continuing education opportunities, as required under KRS 147A.027 for those involved in planning, including forums where those individuals can share resources and provide technical assistance to each other.

SECTION 5. A NEW SECTION OF KRS CHAPTER 147 IS CREATED TO READ AS FOLLOWS:

(1) (a) No capital project subject to the provisions of KRS 45.151, with a total appropriated capital budget in excess of two million dollars ($2,000,000), except for projects to be located in an area covered by a local comprehensive plan, shall be commenced after the effective date of this Act without prior review by the state planning committee. Any such project located in an area covered by a comprehensive plan shall be subject to that plan and the approval of the appropriate local planning authority unless the state planning committee determines in writing that there is an overriding state interest in locating the project in that particular area notwithstanding the decision of the local planning authority. In that case, the determination of the state planning committee shall be final and not subject to further review.

(b) For all other capital projects subject to its review and before final action is taken to acquire land or commence construction, the state agency proposing the project shall submit a report to the state planning committee. The report shall explain the project, address the manner in which the location of the project was determined, including the extent to which the location will be in an area already developed with infrastructure already in place and if not, the reasons for not choosing such a location.

(c) All such state projects shall be located, to the extent feasible, in a manner that takes advantage of existing infrastructure, preserves open spaces, agricultural resources, and historic or environmentally sensitive areas and provides accessibility through a variety of means.

(2) (a) The state planning committee shall also review all proposed capital projects which require the acquisition and development of fifty (50) or more acres of farmland to nonfarm use. The review shall consider alternatives to the project proposal in an effort to balance the public purpose to be served by the state project against the public purpose of conserving productive farmland.

(b) Before final action is taken to acquire the farmland, the state agency shall submit a report to the state planning committee. The report shall explain the project, contain an agricultural impact assessment, highlight the location of land that is intended to be acquired, present the reasons for needing the land, and explain the reasons for rejecting alternatives to the proposed project.

(c) All state projects covered by this subsection shall be located to provide minimal interference with the productivity of agricultural lands of statewide agricultural importance, as identified under the procedure set forth in KRS 246.065 to the extent feasible.

(3) In its review of capital projects under this section, the chair of the state planning committee may appoint two (2) additional ad hoc members from the impacted county. The first ad hoc member shall be a representative of the planning commission with jurisdiction over the area in which a project subject to state planning committee approval is proposed to be located or, if the area is not within the jurisdiction of a planning commission, the county judge/executive of the county in which the project is proposed to be located. The second ad hoc member shall be a resident of the county in which the project is proposed to be located. If the project requires the acquisition of fifty (50) or more acres of farmland, the chair of the state planning committee shall appoint three (3) ad hoc members from the impacted county; one (1) being a representative of the planning commission with jurisdiction over the area subject to state planning committee approval or, if the area is not within the jurisdiction of a planning commission, the county judge/executive of the county in which the project is to be located; one (1) being a person appointed by the chair from a list of three (3) submitted by the county's Farm Service Administration board; and one (1) being a person appointed by the chair from a list of three (3) submitted by the county's Cooperative Extension Service board. The commissioner of the Department of Fish and Wildlife Resources shall serve as an ex officio member of the state planning committee in its review of the acquisition of farmland.

(4) If the state planning committee conducts a review of a proposed state project under the provisions of this section, it shall provide notice of the proposed project to the local community by publishing the notice in the newspaper of greatest local circulation within thirty (30) days after receiving the report. The notice shall solicit comments on the proposal and state that a public hearing shall be held upon a request received within thirty (30) days of the last published notice. If requested, the public hearing shall be held within thirty (30) days after receiving the request. The hearing required by this subsection shall not be construed to be an adjudicative hearing covered by KRS Chapter 13B. No later than thirty (30) days after the hearing, the state planning committee shall file its report and any recommendations to the Governor's Cabinet. The Governor's Cabinet may require the agency proposing the project to alter the project, if necessary, to resolve inconsistencies between the project and any applicable local comprehensive plan, or if there is no local comprehensive plan, to resolve inconsistencies between the project and best practices for the siting of state facilities.

Section 6. KRS 147.075 is amended to read as follows:

(1) As used in KRS 147.070 to 147.120 the term "Governor's Cabinet" shall mean the "Governor's Executive Cabinet" and such other persons as the Governor may designate to compose the membership of the "State Planning Committee" *in addition to the individuals listed in subsection (2) of this section*. The *secretary of the Governor's Executive Cabinet*[~~Governor~~] shall serve as chairman of the State Planning Committee, the secretary of the *Finance and Administration* Cabinet[~~ for Economic Development~~] shall serve as vice chairman, and the *director of the Governor's Office of State Budget Director*[~~special assistant to the Governor for budget and management~~] shall serve as secretary.

(2) The following individuals shall at a minimum serve as members of the state planning committee:

(a) The secretary of the Governor's Executive Cabinet;

(b) The secretary of the Finance and Administration Cabinet;

(c) The secretary of the Cabinet for Economic Development;

(d) The secretary of the Education, Arts, and Humanities Cabinet;

(e) The secretary of the Natural Resources and Environmental Protection Cabinet;

(f) The secretary of the Tourism Development Cabinet;

(g) The secretary of the Transportation Cabinet;

(h) The commissioner of the Department for Local Government;

(i) The director of the Governor's Office of State Budget Director;

(j) The commissioner of the Department of Agriculture, or the commissioner's designee; and

(k) The chair of the Environmental Quality Commission.

Section 7. KRS 147A.125 is amended to read as follows:

(1) Except as set forth in subsection (8) of this section, each area development district shall establish a regional planning

council to act in an advisory capacity on planning matters throughout the district.

(2) The regional planning council shall be composed of one (1) representative from each planning unit in the area development district ***and the county judge/executive, or the judge's designee, of any county in the district that does not have a county-wide planning unit***. Each representative shall be appointed annually by the planning commission of each planning unit in the district. To be eligible for appointment to the council, a person shall be a member of the planning commission, or the planning commission's professional staff.

(3) At its first regular meeting in each year, the council shall elect from its membership a president and vice president. The vice president shall have the authority to act as president of the council during the absence or disability of the president.

(4) The council shall meet at the call of the president, but at least quarterly in each year.

(5) To insure compatible treatment of planned development throughout the district, the council may review comprehensive plans of planning units within the district for regional impact, may develop regional transportation, infrastructure, and land use plans for the district, and may make recommendations regarding the regional impact of proposed comprehensive plans and plan amendments of planning units within the district. ***All the recommendations shall be reviewed by the respective area development district's board of directors to ensure compatibility with regional plans and activities.***

(6) The area development district shall provide staff and technical support as requested by the council. Existing land use planning services and functions of the area development district shall be placed under the direction and control of the council.

(7) The council may offer training and education opportunities in the area of planning and zoning matters to planning commission members and staff in the district.

(8) The requirements of this section shall not apply to any area development district in which fifty percent (50%) or more of the population resides in cities or counties which participate in a regional planning authority, council of governments, or other agency which is authorized to perform regional planning functions as described in this section.

Section 8. The following KRS section is repealed:

262.875 Interagency Farmland Advisory Committee.

The Committee Amendment No. 1 Title to **HB 600** is as follows:

Amend title to read as follows: "AN ACT relating to community growth and revitalization.".

The Committee on Transportation reported **SB 238,** with Committee Substitute and Committee Amendment attached thereto, **SJR 109,** and **SJR 156** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 238, AN ACT relating to highway signage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

All statutes to the contrary notwithstanding, the Transportation Cabinet shall amend its policies and administrative regulations in effect on the effective date of this Act governing highway signage to include shopping malls and shopping areas as businesses that are eligible to obtain a specific service highway sign, and shall not subsequently adopt new policies or promulgate new administrative regulations to the contrary.

The Committee Substitute to **SB 238** is as follows:

SB 238, AN ACT relating to highway signage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

All statutes to the contrary notwithstanding, the Transportation Cabinet shall amend its policies and administrative regulations in effect on the effective date of this Act governing highway signage to include shopping malls and shopping areas as businesses that are eligible to obtain a specific service highway sign, and shall not subsequently adopt new policies or promulgate new administrative regulations to the contrary.

Section 2. KRS 186A.115 is amended to read as follows:

(1) Except as otherwise provided in this section, the owner of every vehicle brought into this state and required to be titled in this state shall, before submitting his application for title to the county clerk, have the vehicle together with his application for title and its supporting documents inspected by a certified inspector in the county in which the application for title is to be submitted to the county clerk.

(a) The certified inspector shall be certified through the Department of Vehicle Regulation following requirements set forth by the department by regulation and shall be designated by the county sheriff. The certified inspector will be held responsible for all certifications required pursuant to this chapter and will be liable for any and all penalties prescribed in this chapter, and shall be available during regular office hours at any and all offices and branches that issue applications for titles.

(b) There shall be a five dollar ($5) fee for this certification, payable to the sheriff's office, upon completion of certification.

(c) There shall be an additional fee of ten dollars ($10) per trip when it becomes necessary for the certified inspector to travel to the site of the vehicle rather than bringing the vehicle to the sheriff's inspection area.

(d) An inspection conducted in one (1) county within the Commonwealth of Kentucky under this subsection, and the fees paid for that inspection under this subsection, shall be honored by the certified inspector, sheriff, and county clerk in all other counties within this state. A second inspection shall not be required and additional fees shall not be required.

(2) The following vehicles are excluded from the requirement of inspection by a certified inspector prior to titling in this state:

(a) New motor vehicles sold by a dealer licensed in this state;

(b) Vehicles required to be registered in this state by reason of lack of a reciprocity agreement with another state and for which a nonnegotiable registration document is to be issued;

(c) Motor vehicles operated by a motor carrier under a nonnegotiable certificate or permit issued by the Department of Vehicle Regulation;

(d) Motor vehicles owned by servicemen or servicewomen who are residents of Kentucky stationed outside of Kentucky may be inspected by the post provost or similar officer of the camp, post, or station. The post provost or similar officer shall submit an affidavit stating the name of the owner, the identification or serial number, the make, body style, current license or title number, if any, and state in which currently registered or titled, if any, of the motor vehicle; and

(e) Motor vehicles no longer located in Kentucky but which require inspection in order to issue a corrected Kentucky title due to error in vehicle identification or serial number may be inspected by an inspector authorized to inspect vehicle identification or serial number by the laws of the state or foreign country where application for a new title has been submitted.

(3) When presented to a certified inspector for inspection or to a county clerk for processing, the owner's application for a first certificate of registration or title in his name shall be accompanied by proof of insurance in compliance with KRS 304.39-080 and one (1) of the following documents as applicable:

(a) If the vehicle is a new vehicle not previously registered in this state, the properly assigned manufacturer's statement of origin for the vehicle for which registration or title is sought;

(b) If the vehicle was last registered in this state, and is a vehicle for which a title is not required in this state, a certificate of registration, or if the vehicle is one for which a certificate of title is required in this state, a properly assigned certificate of title;

(c) If the vehicle was last previously titled in another state, a properly assigned certificate of title;

(d) If the application refers to a vehicle previously registered in another country, the documents of that country establishing ownership of the vehicle;

(e) If the application refers to a vehicle last previously registered in another country by a person on active duty in the Armed Forces of the United States, the county clerk may accept on behalf of the Department of Vehicle Regulation evidence of ownership provided the applicant by the United States Department of Defense; and

(f) If the application relates to a vehicle which has been specially constructed or reconstructed, that fact shall be stated in the application, and the application shall be accompanied by such documents as are specified by administrative regulations of the Department of Vehicle Regulation.

(4) When requested to inspect a vehicle pursuant to this section, the certified inspector shall personally and physically inspect the vehicle, when registration or title is sought in this state, on the following points:

(a) He shall ensure that the application is legible and properly executed to the extent required at the time of execution;

(b) He shall compare the vehicle identification number as appearing on both the vehicle identification number plate, and the federal safety standards label of the vehicle which is sought to be registered or titled, with the corresponding number inscribed on the application, and its supporting documentation, and ensure that the vehicle identification number appearing at each described location appears legitimate and that they are consistent with each other;

(c) He shall examine the primary odometer of the vehicle and legibly record the reading in the space provided in the inspection section of the application; and

(d) After exercising due diligence in inspecting the vehicle, the application, and its supporting documentation, and finding that they appear to be in order, the certified inspector shall execute the preprinted certificate of inspection according to its terms by printing in the spaces provided his first name, middle initial, and last name, and his title; the name of the county in which he serves; and the telephone number including the telephone area code of his agency, and sign in ink his signature in the space provided, and print the month, day, and year in which his inspection was made, certifying under penalty of forgery in the second degree the character, accuracy, and date of his inspection.

(5) The certified inspector shall refrain from executing the certificate of inspection if:

(a) He has not personally and physically inspected the vehicle in accordance with this section;

(b) He has reason to believe that the vehicle displays an unlawfully altered vehicle identification number;

(c) The application and any of its copies are illegible or otherwise improperly executed, or contain information reasonably believed to be inaccurate or fraudulent;

(d) The documentation required in support of any application is not present, or not consistent with the vehicle and the owner's application or appears fraudulent; or

(e) He has probable cause to believe the vehicle is stolen.

The Committee Amendment No. 1 Title to **SB 238** is as follows:

On page 1, amend the title to read as follows:
"AN ACT relating to transportation.".

SJR 109, A JOINT RESOLUTION Naming the "Earl Johnson Memorial Bridge" in Pike County.

WHEREAS, Earl Johnson, born in Hellier, Kentucky, spent his entire life enriching the lives of Pike Countians; and

WHEREAS, Earl Johnson worked in the coal mines before establishing his own business, Johnson's Store, in 1938; and

WHEREAS, Earl Johnson ran his store continuously until his retirement in 1975, when it was taken over by his son, who runs it today; and

WHEREAS, Johnson's Store remains a fixture in the Marrowbone Creek community; and

WHEREAS, Earl Johnson also served as a director of Pikeville National Bank, a position in which he helped many get needed loans for homes and businesses; and

WHEREAS, Earl Johnson was instrumental in the development of the Marrowbone Water District; and

WHEREAS, Earl Johnson, who passed away in 1990, is fondly remembered and sorely missed by his widow, Oma Coleman Johnson, his son, Earl Johnson, Jr., his daughter, Carol Salyers, and his five grandchildren; and

WHEREAS, Earl Johnson should be remembered and honored for doing the little things that, over a lifetime, make a difference in a community;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to rename the bridge on Kentucky Route 195 at the intersection of United States Route 460 over the Russell Fork River the "Earl Johnson Memorial Bridge."

Section 2. The Transportation Cabinet shall erect signs identifying the "Earl Johnson Memorial Bridge" within thirty (30) days of the effective date of this Resolution at each end of the bridge specified in Section 1 of this Resolution.

SJR 156, A JOINT RESOLUTION honoring the achievements of Ralph Smith of Livingston County.

WHEREAS, Ralph Smith was a dedicated public servant who spent the better part of his life in service to the people of Livingston County; and

WHEREAS, Ralph Smith served for over 40 years cumulatively in the posts of Livingston County Judge and Livingston County Sheriff; and

WHEREAS, now that Ralph Smith is retired from public service, it is more apparent than ever what his contributions have meant to the people of Livingston County; and

WHEREAS, Ralph Smith should be commended and honored by the General Assembly for a life spent in service;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name the bridge on United States Route 60 over the Cumberland River in Livingston County the "Ralph Smith Bridge."

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs at each end of the bridge specified in Section 1 of this Act that read "Ralph Smith Bridge."

The Committee on Health and Welfare reported **HB 840, HCR 239,** with Committee Substitute attached thereto, **SB 11,** with Committee Substitute attached thereto, **SB 150,** with Committee Substitute attached thereto, **SB 164, SB 207, SB 219, SB 289,** with Committee Substitute attached thereto, and **SCR 185** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 840, AN ACT relating to the Kentucky Long-Term Care Ombudsman Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 216.537 TO 216.590 IS CREATED TO READ AS FOLLOWS:

Subject to the availability of funds, the cabinet shall upgrade the status of a long-term care ombudsman from a part-time position to a full-time position to ensure:

(1) That there is at least one (1) full-time long-term care ombudsman position in each area development district; and

(2) That there is at least one (1) full-time long-term care ombudsman position for every two thousand (2,000) nursing home residents in Kentucky.

HCR 239, A CONCURRENT RESOLUTION reauthorizing the task force on quality long-term care for the purpose of studying methods to promote and enhance the provision of quality care in Kentucky's long-term care facilities.

WHEREAS, there are currently over 35,000 long-term care beds in Kentucky; and

WHEREAS, in fiscal year 1998-1999, the Kentucky Medical Assistance Program spent over $690,000,000 on long-term care services; and

WHEREAS, according to the Kentucky State Data Center, by 2020, the population over the age of 65 in Kentucky is estimated to grow to 717,607 which is an increase of 45%, as compared with only a 10% growth in Kentucky's total population; and

WHEREAS, between 2010 and 2020 Kentucky's entire population growth will be in the 65-and-over category; and

WHEREAS, these stunning changes in our population will dramatically increase the need and demand for quality long-term care services; and

WHEREAS, the 2000 General Assembly authorized the creation of the quality long-term care task force, but much work remains to be accomplished; and

WHEREAS, Kentucky needs to continue its preparation for the challenges that will be presented in caring for this growing elderly population;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to reauthorize the task force on quality long-term care during 2002 and 2003 to study the issue of providing quality long-term care in Kentucky. The task force shall meet at least monthly, beginning not later than October 1, 2002, and shall report its findings and recommendations to the Legislative Research Commission and the Governor no later than September 1, 2003. The task force shall study methods to promote and enhance the quality of care provided in long-term care facilities in Kentucky, as well as in-home and community-based services, which shall include, but not be limited to:

(1) Wage pass-through programs to increase staff salaries;

(2) Financial incentives for facilities exceeding quality standards;

(3) Linkage of reimbursement to staffing levels;

(4) Provision of additional training for facility staff;

(5) Mandatory staff-to-patient ratios;

(6) Assisted living facilities and other nonmedical socially oriented living arrangements in the community; and

(7) Noninstitutional services delivered in the home of the client including, but not limited to, the provision of home health, meals, housekeeping, and assistance with personal care.

Section 2. The task force shall consist of 27 members as follows:

(1) The Chair of the House Health and Welfare Committee;
(2) The Chair of the Senate Health and Welfare Committee;
(3) The Chair of the House Appropriations and Revenue Committee;
(4) The Chair of the Senate Appropriations and Revenue Committee;
(5) The Chair of the House Seniors, Military Affairs, and Public Safety Committee;
(6) The Secretary of the Cabinet for Health Services or the secretary's designee;
(7) The Commissioner for the Department for Medicaid Services;
(8) The Director of the Division of Licensing and Regulations;
(9) The Kentucky State Long-Term Care Ombudsman;
(10) The Director of the Division of Aging Services;
(11) The Attorney General or the Attorney General's designee.
(12) Sixteen members appointed jointly by the President of the Senate and the Speaker of the House of Representatives, with one member representing each of the following interests:
    (a) The Kentucky Association of Health Care Facilities;
    (b) The Kentucky Association of Not-for-Profit Homes and Services for the Aging;
    (c) The Kentucky Nursing Home Association;
    (d) The Kentucky Hospital Association;
    (e) The Kentucky Medical Association;
    (f) The Kentucky Nurses Association;
    (g) The Kentucky Home Health Association;
    (h) The Kentucky Hospice Association;
    (i) The American Association of Retired Persons;
    (j) The Kentucky Association of Gerontology;
    (k) The Kentucky Assisted Living Facilities Association;
    (l) The Kentucky Adult Day Association;
    (m) A district long-term care ombudsman;
    (n) Two citizen members of a board of directors of a district long-term care ombudsman program; and
    (o) An area development district.

Section 3. Except as provided in KRS 18A.200, members of the task force shall receive actual travel expenses while attending meetings.

Section 4. The task force may employ consultants if approved by the Legislative Research Commission, request and hear testimony, or take any necessary steps to ensure a fair, thorough, and reasonable study of the issue. The task force shall be staffed by the Legislative Research Commission, and include at least one Legislative Research Commission staff economist.

Section 5. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Substitute to **HCR 239** is as follows:

HCR 239, A CONCURRENT RESOLUTION reauthorizing the task force on quality long-term care for the purpose of studying methods to promote and enhance the provision of quality care in Kentucky's long-term care facilities.

WHEREAS, there are currently over 35,000 long-term care beds in Kentucky; and

WHEREAS, in fiscal year 1998-1999, the Kentucky Medical Assistance Program spent over $690,000,000 on long-term care services; and

WHEREAS, according to the Kentucky State Data Center, by 2020, the population over the age of 65 in Kentucky is estimated to grow to 717,607 which is an increase of 45%, as compared with only a 10% growth in Kentucky's total population; and

WHEREAS, between 2010 and 2020 Kentucky's entire population growth will be in the 65-and-over category; and

WHEREAS, these stunning changes in our population will dramatically increase the need and demand for quality long-term care services; and

WHEREAS, the 2000 General Assembly authorized the creation of the quality long-term care task force, but much work remains to be accomplished; and

WHEREAS, Kentucky needs to continue its preparation for the challenges that will be presented in caring for this growing elderly population;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to reauthorize the task force on quality long-term care during 2002 and 2003 to study the issue of providing quality long-term care in Kentucky. The task force shall meet at least monthly, beginning not later than October 1, 2002, and shall report its findings and recommendations to the Legislative Research Commission and the Governor no later than September 1, 2003. The task force shall study methods to promote and enhance the quality of care provided in long-term care facilities in Kentucky, as well as in-home and community-based services, which shall include, but not be limited to:

(1) Wage pass-through programs to increase staff salaries;

(2) Financial incentives for facilities exceeding quality standards;

(3) Linkage of reimbursement to staffing levels;

(4) Provision of additional training for facility staff;

(5) Mandatory staff-to-patient ratios;

(6) Assisted living facilities and other nonmedical socially oriented living arrangements in the community; and

(7) Noninstitutional services delivered in the home of the client including, but not limited to, the provision of home health, meals, housekeeping, and assistance with personal care.

Section 2. The task force shall consist of 28 members as follows:

(1) The Chair of the House Health and Welfare Committee;

(2) The Chair of the Senate Health and Welfare Committee;

(3) The Chair of the House Appropriations and Revenue Committee;

(4) The Chair of the Senate Appropriations and Revenue Committee;

(5) The Chair of the House Seniors, Military Affairs, and Public Safety Committee;

(6) The Secretary of the Cabinet for Health Services or the secretary's designee;

(7) The Secretary of the Cabinet for Families and Children or the secretary's designee;

(8) The Commissioner for the Department for Medicaid Services;

(9) The Director of the Division of Licensing and Regulations;

(10) The Kentucky State Long-Term Care Ombudsman;

(11) The Director of the Division of Aging Services;

(12) The Attorney General or the Attorney General's designee.

(13) Sixteen members appointed jointly by the President of the Senate and the Speaker of the House of Representatives, with one member representing each of the following interests:

    (a) The Kentucky Association of Health Care Facilities;

    (b) The Kentucky Association of Not-for-Profit Homes and Services for the Aging;

    (c) The Kentucky Nursing Home Association;

    (d) The Kentucky Hospital Association;

    (e) The Kentucky Medical Association;

    (f) The Kentucky Nurses Association;

    (g) The Kentucky Home Health Association;

    (h) The Kentucky Hospice Association;

    (i) The American Association of Retired Persons;

    (j) The Kentucky Association of Gerontology;

    (k) The Kentucky Assisted Living Facilities Association;

    (l) The Kentucky Adult Day Association;

    (m) A district long-term care ombudsman;

    (n) Two citizen members of a board of directors of a district long-term care ombudsman program; and

    (o) An area development district.

Section 3. Except as provided in KRS 18A.200, members of the task force shall receive actual travel expenses while attending meetings.

Section 4. The task force may employ consultants if approved by the Legislative Research Commission, request and hear testimony, or take any necessary steps to ensure a fair, thorough, and reasonable study of the issue. The task force shall be staffed by the Legislative Research Commission, and include at least one Legislative Research Commission staff economist.

Section 5. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

SB 11, AN ACT relating to the licensing of dentists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) The board may, by a majority vote, make a determination that an immediate temporary suspension of a license against which disciplinary action or an investigation is pending is necessary in order to protect the public.

(2) The emergency order shall be made in accordance with KRS 13B.125 and shall be based upon a finding by the board that the emergency order is in the public interest and that there is substantial evidence of immediate danger to the health, welfare, and safety of his patients or the general public.

(3) A licensee may appeal the emergency order by a written request to the board for an emergency hearing in accordance with KRS 13B.125 within thirty (30) days after receipt of the order.

(4) The appeal of an emergency order shall address only the necessity for the action and shall not constitute an appeal of the merits of the underlying complaint or charge.

(5) The emergency order shall remain in effect until modified or vacated by the board or hearing officer or superceded by final disciplinary action of the board or hearing officer on the underlying complaint or charge.

(6) The board shall expedite disciplinary hearings in which a license has been suspended under subsection (1) of this section.

(7) Any party aggrieved by a final order of the board may appeal to the Jefferson Circuit Court or the Franklin Circuit Court after a written decision is rendered.

The Committee Substitute to **SB 11** is as follows:

SB 11, AN ACT relating to the licensing of dentists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) The board may, by a majority vote, issue an emergency order for the immediate temporary suspension of a license against which disciplinary action or an investigation is pending if the order is necessary to protect the public.

(2) The emergency order shall be made in accordance with KRS 13B.125 and shall be based upon a finding by the board that the emergency order is in the public interest and that there is substantial evidence of immediate danger to the health, welfare, and safety of his patients or the general public.

(3) A licensee may appeal the emergency order by a written request to the board for an emergency hearing in accordance with KRS 13B.125 within thirty (30) days after receipt of the order.

(4) The appeal of an emergency order shall address only the necessity for the action and shall not constitute an appeal of the merits of the underlying complaint or charge.

(5) The emergency order shall remain in effect until modified or vacated by the board or hearing officer or superceded by final disciplinary action of the board or hearing officer on the underlying complaint or charge.

(6) The board shall expedite disciplinary hearings in which a license has been suspended under subsection (1) of this section.

(7) Any party aggrieved by a final order of the board may appeal to the Jefferson Circuit Court or the Franklin Circuit Court after a written decision is rendered.

SB 150, AN ACT relating to the practice of dentistry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) A licensed dental hygienist shall practice under the supervision, order, control, and full responsibility of a dentist licensed under this chapter. A dental hygienist may practice in a dental office, public or private school, health care facility, or government institution with a dentist on staff. Except as provided in subsection (2) or (3) of this section, a dental hygienist may not provide dental hygiene services to a patient when the supervising dentist is not physically

present at the location where the dental hygienist is practicing.

(2) A dental hygienist may provide, for not more than fifteen (15) consecutive full business days, dental hygiene services to a patient when the supervising dentist is not physically present at the location at which the services are provided if all of the following requirements are met:

(a) The dental hygienist has at least two (2) years with a minimum of three thousand (3,000) hours of experience in the practice of dental hygiene;

(b) The dental hygienist has successfully completed a course approved by the state dental board in the identification and prevention of potential medical emergencies, with recertification in the course every two (2) years;

(c) The dental hygienist complies with any written protocols for emergencies the supervising dentist may establish;

(d) The dental hygienist does not perform, while the supervising dentist is absent from the location, procedures while the patient is anesthetized or other procedures identified in administrative regulations promulgated by the board;

(e) The supervising dentist has evaluated and provided written certification of the dental hygienist's skills, as required by the board;

(f) The supervising dentist has examined the patient not more than seven (7) months prior to the date that the dental hygienist provides the dental hygiene services to the patient;

(g) The supervising dentist has established a written office protocol clearly defining all guidelines, including medically compromised patients, when the treatment by the hygienist is permitted or when the patient needs to be seen directly by the dentist. The minimum requirements of the written protocol shall be established by the board;

(h) In advance of the appointment for dental hygiene services, the patient is notified that the supervising dentist will be absent from the location and the dental hygienist cannot diagnose the patient's dental health care status. The patient or legal guardian shall be required to sign an informed consent, prior to treatment by the hygienist, acknowledging the dentist's absence before the dental hygienist may commence treatment of the patient;

(i) The supervising dentist completed and evaluated a medical and dental history of the patient not more than seven (7) months prior to the date that the dental hygienist provides dental hygiene services to the patient and, except when the dental hygiene services are provided in a health care facility, the supervising dentist determines that the patient is in a medically stable condition. Prior to the appointment for dental hygiene services, the dentist shall place a written order for treatment in the patient's record. Guidelines for the written order shall be prescribed by the board;

(j) If the dental hygiene services are provided in a health care facility, a dentist who holds a current license under this chapter, a physician licensed under KRS Chapter 311, or a registered nurse licensed under KRS Chapter 314, is present in the health care facility when the services are provided and has determined that the patient may receive appropriate dental hygiene services; and

(k) The dental hygienist is employed by, or under contract with, one (1) of the following:

  1. The supervising dentist;

  2. A dentist licensed under this chapter who is one (1) of the following:

    a. The employer of the supervising dentist;

    b. A shareholder in a professional association formed under KRS Chapter 274, of which the supervising dentist is a shareholder;

    c. A member or manager of a limited liability company formed under KRS Chapter 275, of which the supervising dentist is a member or manager;

    d. A shareholder in a corporation formed under KRS Chapter 271B, of which the supervising dentist is a shareholder; or

    e. A partner or employee of a partnership or a limited liability partnership formed under KRS Chapter 362, of which the supervising dentist is a partner or employee; or

  3. A government entity that employs the dental hygienist to provide dental hygiene services in a public school or in connection with other programs that the government entity administers.

(3) A dental hygienist may provide dental hygiene services to a patient when the supervising dentist is not physically present at the location at which the services are provided if the services are provided as part of a dental health program that is approved by the board and all of the following requirements are met:

(a) The program is operated through a school district board of education or the governing board of an educational service center; the board of health of a city or general health district or authority having the duties of a board of health under KRS Chapter 212; a national, state, district, or local dental association; or any other public or private entity recognized by the board;

(b) The supervising dentist is employed by or a volunteer for, and the patients are referred by, the entity through

which the program is operated; and

(c) The services are performed after the examination and diagnosis by the dentist and in accordance with the dentist's written treatment plan.

(4) No person or corporation shall:

(a) Practice dental hygiene in a manner that is separate or otherwise independent from the dental practice of a supervising dentist; or

(b) Establish or maintain an office or practice that is primarily devoted to the provision of dental hygiene services.

(5) The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A that identifies the procedures that a dental hygienist shall not perform when practicing in the absence of the supervising dentist under subsection (2) or (3) of this section.

(6) For purposes of determining whether a dental hygienist has met the experience requirements of paragraph (a) of subsection (2), all experience that the dental hygienist obtained prior to the effective date of this Act shall be credited toward the experience requirement.

SECTION 2. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) The board shall promulgate administrative regulations to define certification requirements, duties, training, and standards of practice that may be performed by a dental assistant who has a minimum of one (1) year of dental office experience and has successfully passed the dental assisting course at an institution of dental education accredited by the Council on Dental Accreditation.

(2) The board shall approve the instructor and the courses of study for approving duties, training, and standards of practice that may be performed by a dental assistant and shall authorize the course instructor to issue certificates, under the board's direction, to those who successfully complete the requirements.

(3) A dental assistant shall practice under the supervision, order, control, and full responsibility of a dentist licensed under this chapter.

(4) The certificate for each dental assistant shall be continuously displayed in a conspicuous place in the office of the licensee.

(5) Supervising dentists shall only assign to dental assistants procedures that do not require the professional competence of a licensed dentist or a licensed dental hygienist.

(6) Dental assistant services may include coronal polishing, a cosmetic procedure that is not essential to therapeutic oral prophylaxis, if the following criteria are observed:

(a) Polishing activities are limited to the use of a rubber cap attached to a slow-speed rotary dental handpiece;

(b) The assistant has received a certificate from the board's approved instructor that ensures the assistant has successfully completed a dental assisting course developed by the Kentucky Board of Dentistry and a committee of dental educators from the Kentucky institutions of dental education accredited by the Council on Dental Accreditation; and

(c) The dental assisting course shall include basic dental assisting and coronal polishing instruction that includes didactic, preclinical, clinical training and competency testing.

(7) Dental assistant services shall not include the following:

(a) The practice of dental hygiene or the performance of the duties of a licensed dental hygienist that require the use of any instrumentation which may elicit the removal of calcareous deposits or accretions on the crowns and roots of teeth;

(b) Diagnosis;

(c) Treatment planning and prescription, including prescriptions for drugs or medicaments, or authorization for restorative, prosthodontic, or orthodontic appliances;

(d) Surgical procedures on hard or soft tissues of the oral cavity, or any other intraoral procedure that contributes to or results in an irreversible alteration of the oral anatomy; and

(e) The making of final impressions from which casts are made to construct any dental restoration.

SECTION 3. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

A licensed dentist may delegate to a licensed dental hygienist the administration of block and infiltration anesthesia and nitrous oxide analgesia under the direct supervision of a dentist under the following circumstances:

(1) The dental hygienist has successfully completed a formal training program from an accredited dental or dental hygiene school as approved by the Kentucky Board of Dentistry;

(2) The dental hygienist has obtained a certificate from the board that acknowledges the qualifications of the dental hygienist to perform these duties;

(3) The dental office policies permit these duties to be performed by the dental hygienist; and

(4) The dental hygienist has paid a fee as determined by the board for the certification process established for this section.

Section 4. KRS 313.310 is amended to read as follows:

No person shall practice dental hygiene nor hold himself out as a dental hygienist without a license issued by the board, and unless he is an employee of a licensed and practicing dentist in this state and is under the continuous supervision and inspection of such dentist, *except as provided in Section 1 of this Act, and* provided that the board, in its discretion, may grant permission for the employment of a dental hygienist by any organization.~~[A practicing dentist may not have in his employ more than the equivalent of two (2) full-time dental hygienists.]~~ The license for each dental hygienist shall be continuously displayed in a conspicuous place in the office of the licensee.

The Committee Substitute to **SB 150** is as follows:

SB 150, AN ACT relating to the practice of dentistry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) A licensed dental hygienist shall practice under the supervision, order, control, and full responsibility of a dentist licensed under this chapter. A dental hygienist may practice in a dental office, public or private school, health care facility, or government institution with a dentist on staff. Except as provided in subsection (2) or (3) of this section, a dental hygienist may not provide dental hygiene services to a patient when the supervising dentist is not physically present at the location where the dental hygienist is practicing.

(2) A dental hygienist may provide, for not more than fifteen (15) consecutive full business days, dental hygiene services to a patient when the supervising dentist is not physically present at the location at which the services are provided if all of the following requirements are met:

(a) The dental hygienist has at least two (2) years with a minimum of three thousand (3,000) hours of experience in the practice of dental hygiene;

(b) The dental hygienist has successfully completed a course approved by the state dental board in the identification and prevention of potential medical emergencies, with recertification in the course every two (2) years;

(c) The dental hygienist complies with any written protocols for emergencies the supervising dentist may establish;

(d) The dental hygienist does not perform, while the supervising dentist is absent from the location, procedures while the patient is anesthetized or other procedures identified in administrative regulations promulgated by the board;

(e) The supervising dentist has evaluated and provided written certification of the dental hygienist's skills, as required by the board;

(f) The supervising dentist has examined the patient not more than seven (7) months prior to the date that the dental hygienist provides the dental hygiene services to the patient;

(g) The supervising dentist has established a written office protocol clearly defining all guidelines, including medically compromised patients, when the treatment by the hygienist is permitted or when the patient needs to be seen directly by the dentist. The minimum requirements of the written protocol shall be established by the board;

(h) In advance of the appointment for dental hygiene services, the patient is notified that the supervising dentist will be absent from the location and the dental hygienist cannot diagnose the patient's dental health care status. The patient or legal guardian shall be required to sign an informed consent, prior to treatment by the hygienist, acknowledging the dentist's absence before the dental hygienist may commence treatment of the patient;

(i) The supervising dentist completed and evaluated a medical and dental history of the patient not more than seven (7) months prior to the date that the dental hygienist provides dental hygiene services to the patient and, except when the dental hygiene services are provided in a health care facility, the supervising dentist determines that the patient is in a medically stable condition. Prior to the appointment for dental hygiene services, the dentist shall place a written order for treatment in the patient's record. Guidelines for the written order shall be prescribed by the board;

(j) If the dental hygiene services are provided in a health care facility, a dentist who holds a current license under this chapter, a physician licensed under KRS Chapter 311, or a registered nurse licensed under KRS Chapter 314, is present in the health care facility when the services are provided and has determined that the patient may receive appropriate dental hygiene services; and

(k) The dental hygienist is employed by, or under contract with, one (1) of the following:

1. The supervising dentist;

2. A dentist licensed under this chapter who is one (1) of the following:

a. The employer of the supervising dentist;

b. A shareholder in a professional association formed under KRS Chapter 274, of which the *supervising dentist is a shareholder;*

c. A member or manager of a limited liability company formed under KRS Chapter 275, of which the supervising dentist is a member or manager;

d. A shareholder in a corporation formed under KRS Chapter 271B, of which the supervising dentist is a shareholder; or

e. A partner or employee of a partnership or a limited liability partnership formed under KRS Chapter 362, of which the supervising dentist is a partner or employee; or

3. A government entity that employs the dental hygienist to provide dental hygiene services in a public school or in connection with other programs that the government entity administers.

(3) A dental hygienist may provide dental hygiene services to a patient when the supervising dentist is not physically present at the location at which the services are provided if the services are provided as part of a dental health program that is approved by the board and all of the following requirements are met:

(a) The program is operated through a school district board of education or the governing board of an educational service center; the board of health of a city or general health district or authority having the duties of a board of health under KRS Chapter 212; a national, state, district, or local dental association; or any other public or private entity recognized by the board;

(b) The supervising dentist is employed by or a volunteer for, and the patients are referred by, the entity through which the program is operated; and

(c) The services are performed after the examination and diagnosis by the dentist and in accordance with the dentist's written treatment plan.

(4) No person or corporation shall:

(a) Practice dental hygiene in a manner that is separate or otherwise independent from the dental practice of a supervising dentist; or

(b) Establish or maintain an office or practice that is primarily devoted to the provision of dental hygiene services.

(5) The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A that identifies the procedures that a dental hygienist shall not perform when practicing in the absence of the supervising dentist under subsection (2) or (3) of this section.

(6) For purposes of determining whether a dental hygienist has met the experience requirements of paragraph (a) of subsection (2), all experience that the dental hygienist obtained prior to the effective date of this Act shall be credited toward the experience requirement.

SECTION 2. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) The board shall promulgate administrative regulations to define certification requirements, duties, training, and standards of practice that may be performed by a dental assistant who has a minimum of one (1) year of dental office experience and has successfully passed the dental assisting course at an institution of dental education accredited by the Council on Dental Accreditation.

(2) The board shall approve the instructor and the courses of study for approving duties, training, and standards of practice that may be performed by a dental assistant and shall authorize the course instructor to issue certificates, under the board's direction, to those who successfully complete the requirements.

(3) A dental assistant shall practice under the supervision, order, control, and full responsibility of a dentist licensed under this chapter.

(4) The certificate for each dental assistant shall be continuously displayed in a conspicuous place in the office of the licensee.

(5) Supervising dentists shall only assign to dental assistants procedures that do not require the professional competence of a licensed dentist or a licensed dental hygienist.

(6) Dental assistant services may include coronal polishing, a cosmetic procedure that is not essential to therapeutic oral prophylaxis, if the following criteria are observed:

(a) Polishing activities are limited to the use of a rubber cap attached to a slow-speed rotary dental handpiece;

(b) The assistant has received a certificate from the board's approved instructor that ensures the assistant has successfully completed a dental assisting course developed by the Kentucky Board of Dentistry and a committee of dental educators from the Kentucky institutions of dental education accredited by the Council on Dental Accreditation; and

(c) The dental assisting course shall include basic dental assisting and coronal polishing instruction that includes didactic, preclinical, clinical training and competency testing.

(7) Dental assistant services shall not include the following:

(a) The practice of dental hygiene or the performance of the duties of a licensed dental hygienist that require the use of any instrumentation which may elicit the removal of calcareous deposits or accretions on the crowns and

roots of teeth;

(b) Diagnosis;

(c) Treatment planning and prescription, including prescriptions for drugs or medicaments, or authorization for restorative, prosthodontic, or orthodontic appliances;

(d) Surgical procedures on hard or soft tissues of the oral cavity, or any other intraoral procedure that contributes to or results in an irreversible alteration of the oral anatomy; and

(e) The making of final impressions from which casts are made to construct any dental restoration.

SECTION 3. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

A licensed dentist may delegate to a licensed dental hygienist the administration of block and infiltration anesthesia and nitrous oxide analgesia under the direct supervision of a dentist under the following circumstances:

(1) The dental hygienist has successfully completed a formal training program from an accredited dental or dental hygiene school as approved by the Kentucky Board of Dentistry;

(2) The dental hygienist has obtained a certificate from the board that acknowledges the qualifications of the dental hygienist to perform these duties;

(3) The dental office policies permit these duties to be performed by the dental hygienist; and

(4) The dental hygienist has paid a fee as determined by the board for the certification process established for this section.

Section 4. KRS 313.310 is amended to read as follows:

No person shall practice dental hygiene nor hold himself out as a dental hygienist without a license issued by the board, and unless he is an employee of a licensed and practicing dentist in this state and is under the continuous supervision and inspection of such dentist*, except as provided in Section 1 of this Act, and* provided that the board, in its discretion, may grant permission for the employment of a dental hygienist by any organization.[~~ A practicing dentist may not have in his employ more than the equivalent of two (2) full time dental hygienists.~~] The license for each dental hygienist shall be continuously displayed in a conspicuous place in the office of the licensee.

Section 5. KRS 313.200 is amended to read as follows:

(1) When the appointments have been made as provided in this section, the Kentucky Board of Dentistry shall consist of *eleven (11)*[~~nine (9)~~] members, each appointed by the Governor. Seven (7) members of the board shall be licensed dentists appointed from a list of three (3) names recommended for each board position by the resident licensed dentists of Kentucky at an annual election at a time and place selected by the Kentucky Board of Dentistry. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. One (1) member of the board shall be a dental hygienist licensed to practice dental hygiene in the Commonwealth. Each appointment to the board of a licensed dental hygienist shall be made from a list of three (3) names recommended for this position by the resident licensed dental hygienists of Kentucky at an annual election at a time and place selected by the board. *Two (2) members of the board shall be licensed denturists as defined in Section 7 of this Act and appointed from a list of three (3) names recommended for each available position by the Kentucky Denturist Association.*

(2) (a) Each dentist member shall have been an actual resident and licensed practicing dentist of this state for not less than five (5) years immediately preceding his appointment to the board. He shall not be in any way connected with or interested in any dental college or dental department of any institution of learning or dental supply business.

(b) Each dental hygienist member shall have been an actual resident dental hygienist and licensed practicing dental hygienist in this state for not less than five (5) years preceding his appointment to the board. He shall not be in any way connected with or interested in any dental college or dental department of any institution of learning or dental supply business.

(3) Each member of the board shall hold office for four (4) years, and until his successor is appointed and qualifies, except that no member shall serve more than two (2) consecutive terms.

(4) Any vacancy shall be filled for the unexpired term by the Governor in accordance with the provisions of subsection (1) of this section.

(5) Each member of the board shall receive any necessary expenses incurred in attending its meetings. Each member except the secretary-treasurer shall receive as compensation fifty dollars ($50) for each day actually engaged in the duties of his office. The secretary-treasurer shall receive an annual compensation to be established by the board at its annual session.

Section 6. KRS 313.220 is amended to read as follows:

(1) The board shall administer this chapter. It may make regulations for its own conduct and procedure, and provide for affiliation with the American Association of Dental Examiners. It may select the subjects and the standard of proficiency and percentage for examinations to practice dentistry, and it shall conduct the examinations of all applicants for a license under the provisions of this chapter.

(2) The board shall make a report of its proceedings to the Governor by February 1 of each year, showing all money received and disbursed by it pursuant to this chapter for the preceding years ended December 31.

(3) The board may employ attorneys to advise and assist it in enforcing this chapter, and pay them a reasonable compensation

for such work.

(4) The board may, subject to the provisions of this chapter, regulate the practice of dentistry and the use of dental auxiliary personnel in this state.

(5) The board may employ such assistants, inspectors, investigators, clerks, and other persons as it deems necessary to enforce this chapter. It may authorize any of such employees to make investigations and report to the board with respect to any violation of any of the provisions of this chapter or any regulation or order of the board, to inspect any dental office or place where dental operations are performed and to deliver or transmit to any holder of a license under this chapter any order of the board with respect to the licensee's performance of his work under the authority of such license. If any holder of a license under this chapter fails or refuses to admit any such representative of the board for the purpose of making any such examination or inspection or if any holder of any such license fails or refuses to comply with any order or direction of the board, such failure or refusal shall be reported to the board for whatever disciplinary action it deems appropriate, including revocation of any license if such failure or refusal is deemed by the board to be material.

(6) Any representative of the board performing any of the duties referred to in this section shall be furnished with a copy, certified by the secretary-treasurer, of the order of the board pursuant to which he is performing such duties.

(7) The board shall establish a licensing process and begin issuing licenses required under Section 8 of this Act no later than six (6) months after the effective date of this Act. If the board does not comply within the allotted time, the board shall issue a license to each person that the Kentucky Denturist Association certifies as being qualified to practice denturitry as required under Section 9 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

For purposes of Sections 5 and 6 of this Act and Sections 7 to 10 of this Act, unless the context otherwise requires:

(1) "Board" means the Kentucky Board of Dentistry;

(2) "Denture" means any removable full or partial upper or lower prosthetic dental appliance to be worn in the mouth;

(3) "Denturist" means a person licensed to engage in the practice of denturitry;

(4) (a) "Practice of denturitry" means any of the following, if performed within thirty (30) days after an oral health examination by a licensed dentist or dental hygienist:

1. The making, fitting, constructing, altering, reproducing, or repairing of a denture; relining, adjusting, and furnishing, or supplying of a denture directly to an individual; or advising the individual on the use of a denture; or

2. The taking of any impressions, bite registrations, casts, try-ins, or designs preparatory to the provision of dentures to an individual.

(b) Any person, firm, corporation, or business entity or any combination of these shall be regarded as practicing denturitry if he or she performs denturitry services for a fee, salary, or other reward, advertises to perform denturitry services, or uses words, letters, or insignia implying that he or she is engaged in the practice of denturitry. All denturitry work except cast frame work shall be performed at the address shown on the denturist's license.

SECTION 8. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) A person shall not practice or attempt to engage in the practice of denturitry after the effective date of this Act, unless the person is licensed by the Board of Dentistry as a denturist or a dentist, or is registered by the board as a dental laboratory technician.

(2) A person who engages in the practice of denturitry in compliance with subsection (1) of this section shall not be deemed to be practicing dentistry if the person:

(a) Is not licensed as a dentist under KRS Chapter 313; and

(b) Does not perform any other action defined as practicing dentistry under KRS 313.010.

(3) A person who violates any provision of this section shall be fined one thousand dollars ($1,000) or imprisoned in the county jail for not more than thirty (30) days, or both, for the first offense. For each subsequent offense, the person shall be fined two thousand dollars ($2,000) or imprisoned in the county jail for not more than sixty (60) days, or both. Each day that a person without a license practices or attempts to practice denturitry shall constitute a separate offense.

SECTION 9. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

The board may institute, in its own name, proceedings to temporarily or permanently restrain and enjoin violations of Sections 7 to 10 of this Act, including but not limited to persons who have not obtained a license, regardless of whether the person has been convicted for violation of any penal provisions, and shall not be required to pay any costs or filing fees or furnish any bond in connection with the proceedings.

SECTION 10. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) A person who is not a candidate for licensure under subsections (3) or (4) of this section shall meet the following minimum requirements to be eligible for licensing as a denturist:

(a) Completion of at least two (2) years of training in denturitry at an educational institution accredited by a

national or regional accrediting agency;

(b) Completion of at least two (2) years as an apprentice practicing denturitry under the direct supervision of a licensed dentist or denturist; and

(c) Certification in cardiopulmonary resuscitation.

(2) Upon receipt of an application from a person meeting the requirements of subsection (1) of this section, the board shall issue a license.

(3) Reciprocal agreements with denturitry certifying or licensing boards of other states or certifying or licensing agencies shall be accepted without further examination. The board shall issue a Kentucky license to a person applying under this subsection upon presentation of a certified letter from the other state verifying certification or licensure.

(4) A person practicing denturitry in Kentucky prior to the effective date of this Act shall be granted a license by the board if the person submits the following information to the board:

(a) Three (3) affidavits from persons other than the applicant's family members who confirm that the person seeking licensing has practiced denturitry in Kentucky on or before the effective date of this Act;

(b) Three (3) affidavits from persons who have received denturitry services from the applicant within one (1) year immediately preceding the effective date of this Act; and

(c) Proof of membership in the Kentucky Denturist Association for at least two (2) consecutive years.

(5) The board shall require, as a condition of license renewal, annual completion of twelve (12) hours of continuing education in the practice of denturitry.

(6) The board may institute disciplinary action consistent with KRS 313.150 against a denturist for conduct otherwise prohibited of a dentist under Sections 7 to 10 of this Act or KRS 313.130 or 313.140, except for conduct specifically relating to a dentist.

(7) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A within six (6) months after the effective date of this Act to carry out the provisions of Sections 5 and 6 of this Act and Sections 7 to 10 of this Act.

SB 164, AN ACT relating to the use of national accreditation for hospital licensure.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) The Office of the Inspector General shall accept accreditation by the Joint Commission on Accreditation of Healthcare Organizations or another nationally recognized accrediting organization with comparable standards and survey processes, that has been approved by the United States Centers on Medicare and Medicaid Services, as evidence that a hospital demonstrates compliance with all licensure requirements under this chapter. An annual on-site licensing inspection of a hospital shall not be conducted if the Office of the Inspector General receives from the hospital:

(a) A copy of the accreditation report within thirty (30) days of the initial accreditation and all subsequent reports; or

(b) Documentation from a hospital that holds full accreditation from an approved accrediting organization on or before the effective date of this Act.

(2) Nothing in this section shall prevent the Office of the Inspector General from making licensing validation inspections and investigations as it deems necessary related to any complaints. The cabinet shall promulgate the necessary administrative regulations to implement the licensing validation process. Any administrative regulations shall reflect the validation procedures for accredited hospitals participating in the Medicare program.

(3) A hospital shall pay any licensing fees required by the cabinet in order to maintain a license.

(4) A new hospital shall not be exempt from the on-site inspection until meeting the requirements of subsection (1) of this section and administrative regulations promulgated under KRS 216B.040, 216B.042, and 216B.105 for acute, critical access, psychiatric, and rehabilitation facility requirements.

(5) Before beginning construction for the erection of a new building, the alteration of an existing building, or a change in facilities for a hospital, the hospital shall submit plans to the Office of Inspector General for approval.

(6) To the extent possible, the cabinet shall consider all national standards when promulgating administrative regulations for hospital licensure.

SB 207, AN ACT relating to vision examinations for children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.160 is amended to read as follows:

(1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate

administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:

(a) Courses of study for the different grades and kinds of common schools identifying the common curriculum content directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and KRS 158.6453 and distributed to local school districts and schools. They shall include the following: The courses of study for students shall include American sign language which shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law;

(b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(c) The minimum requirements for high school graduation in light of the expected outcomes for students and schools set forth in KRS 158.6451. Student scores from any assessment administered under KRS 158.6453 that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission;

(d) Taking and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;

(e) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;

(f) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;

(g) A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a vision examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that ***a three (3), four (4), five (5), or six (6) year old***[~~the~~] child is enrolled in a public school, public preschool, or Head Start program;

(h) The transportation of children to and from school;

(i) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(j) The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;

(k) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(l) The disposal of real and personal property owned by local boards of education.

(2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include, but are not limited to, the following:

1. An alternative approach will achieve the same result required by the administrative regulation;
2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or
3. There is a finding of good cause for the waiver.

(b) The following shall not be subject to waiver:

1. Administrative regulations relating to health and safety;
2. Administrative regulations relating to civil rights;

3. Administrative regulations required by federal law; and

4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.

(c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.

SB 219, AN ACT relating to the Kentucky Birth Surveillance Registry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.660 is amended to read as follows:

(1) The Department for Public Health shall establish and maintain a Kentucky birth surveillance registry that will provide a system for the collection of information concerning birth defects, stillbirths, and high-risk conditions. The system may cover all or part of the Commonwealth.

(2) In establishing the system, the department may review vital statistics records, and shall also consider expanding the current list of congenital anomalies and high-risk conditions as reported on birth certificates.

(3) ***(a)*** The department may require general acute-care hospitals licensed under~~[the provisions of]~~ KRS Chapter 216B to maintain a list of~~[the following information:]~~ all inpatients ***and voluntarily to maintain a list of all outpatients*** up to the age of five (5) years with a primary diagnosis of a congenital anomaly or high-risk condition as defined by the department upon the recommendation of the appointed advisory committee. ***Hospital participation regarding its outpatients shall be voluntary and subject to the discretion of each hospital.***

(b) The department may require medical laboratories licensed under KRS Chapter 333 to maintain medical records for all persons up to the age of five (5) years with a primary diagnosis of or a laboratory test result indicating congenital anomaly or high-risk condition as defined by the department upon the recommendation of the appointed advisory committee.

(4) Each licensed free-standing birthing center***,***~~[and]~~ general acute-care hospital licensed under KRS Chapter 216B***, and medical laboratory licensed under KRS Chapter 333*** shall grant***, if required or otherwise participating voluntarily under the provisions of subsection (3) of this section,*** to any Kentucky Birth Surveillance Registry personnel or his or her designee, upon presentation of proper identification, access to the medical records of any patient meeting the criteria in subsection (3) of this section. If the department's agent determines that copying of the medical records is necessary, associated costs shall be borne by the Department for Public Health at the rate pursuant to KRS 422.317.

(5) No liability of any kind, character, damages, or other relief shall arise or be enforced against any licensed free-standing birthing center***,***~~[or]~~ general acute-care hospital***, or medical laboratory*** by reason of having provided the information or material to the Kentucky Birth Surveillance Registry.

(6) The Department for Public Health may implement the provisions of KRS 211.651 to 211.670 through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A.

Section 2. KRS 211.665 is amended to read as follows:

(1) The secretary shall appoint a committee to advise on the implementation of the Kentucky birth surveillance registry. The advisory committee shall have representation from the disciplines of obstetrics and gynecology, pediatrics, genetics, epidemiology, biostatistics, hospital administration, state agency service providers, parents of children with congenital anomalies, or high risk conditions, and consumers. Other disciplines may be represented at the discretion of the secretary.

(2) The advisory committee shall recommend to the department a definition of congenital anomalies and high risk conditions to be reported to the registry.

(3) If the department determines it is necessary to collect information from sources other than vital statistics records, general acute care hospitals, ***medical laboratories,*** and free-standing birthing centers, the department shall consult with the advisory committee prior to requesting the information.

Section 3. KRS 211.670 is amended to read as follows:

(1) All lists ***and medical records*** maintained by hospitals ***and medical laboratories*** pursuant to KRS 211.660 shall be confidential. All information collected and analyzed pursuant to KRS 211.660 and 211.665 shall be held confidential as to the identity of the individual patient. Staff of the cabinet, the department, or its designee may use the information to notify parents of available medical care and other services available for the child and family. Further disclosure shall be made only pursuant to the written consent of the child's parent or legal guardian.

(2) Access to information assembled by the Kentucky birth surveillance registry shall be limited to the cabinet, the department, or its designee and to qualified persons or organizations engaged in demographic, epidemiological or other similar studies

related to health and health care provision. A written agreement to maintain confidentiality shall be required if access is approved for persons other than representatives of the cabinet.

(3) The department shall maintain a record of all persons given access to the information in the Kentucky birth surveillance registry. The record shall include: the name of the person authorizing access; name, title, and organizational affiliation of person given access; dates of access; and the specific purpose for which information is to be used. This record of access shall be open to public inspection during normal operating hours of the department.

(4) Information assembled by the Kentucky birth surveillance registry may be disclosed in summary, statistical, or other form which does not identify particular individuals or individual sources of information.

(5) Any person who, in violation of a written agreement to maintain confidentiality, discloses any information provided under KRS 211.660 and 211.665 may be denied further access to confidential information maintained by the department.

SB 289, AN ACT relating to the Nursing Workforce Foundation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds and declares that:

(1) Kentucky is experiencing a nursing shortage that, without proactive intervention, could have serious consequences for the delivery of health care in the state;

(2) With the average age of registered nurses in Kentucky at forty-four (44) years and the average age for licensed practical nurses at forty-nine (49) years, an adequate number of new nurses will be needed to replace the aging nursing workforce;

(3) The current number of students will not be enough to meet the state's future needs for nurses;

(4) The age of nursing educators continues to rise and nursing schools are finding it increasingly more difficult to attract qualified educators;

(5) Changes in the delivery of care and more employment options becoming available to nurses that did not exist previously are making it difficult for employers of nurses to recruit and retain an adequate number of qualified nursing personnel;

(6) Educational institutions must be involved in addressing the shortage but require financial assistance to support the costs associated with program changes, expansions, or both;

(7) Financial assistance is needed to help employers provide scholarships and develop and implement innovative recruitment and retention strategies;

(8) The state has a role in helping to support and finance activities directed toward increasing the supply of nurses; and

(9) A foundation should be established to receive grants, contributions, federal funding, and appropriations for the purpose of making awards to educational institutions, nurses seeking graduate degrees, nursing employers, nursing employer consortiums, and nursing employer associations to meet the workforce needs for licensed nurses in the state.

SECTION 2. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) As used in Sections 1 to 8 of this Act, "board" means the board of the Nursing Workforce Foundation.

(2) The Nursing Workforce Foundation is created and shall be governed by a board comprised of members who are residents of Kentucky appointed by the Governor.

(3) The foundation shall be governed by a board, the membership of which shall consist of the following:

(a) President, or a designee, of the Kentucky Community and Technical College System;

(b) President, or a designee, of the Association of Independent Kentucky Colleges and Universities;

(c) President, or a designee, of the Council on Postsecondary Education;

(d) Secretary, or a designee, of the Kentucky Cabinet for Workforce Development;

(e) Executive Director, or a designee, of the Kentucky Board of Nursing; and

(f) Two (2) members from a list of three (3) individuals recommended by the Kentucky Hospital Association, with one (1) representing a rural hospital and one (1) representing an urban hospital.

(4) The board shall elect a chairman from its members. The board shall meet at least four (4) times a year and at the call of the chairman or a majority of the board members. A majority of the board membership shall constitute a quorum.

(5) Each hospital representative appointment shall be for a term of four (4) years. A vacancy on the board shall be filled by the Governor as provided under this section.

(6) Members of the board shall be entitled to reimbursement for expenses when carrying out official duties of the board in accordance with state administrative regulations relating to travel reimbursement.

(7) The board shall employ or contract with a qualified person or nonprofit organization to serve as executive director to

the board and shall fix the compensation and define the duties. The executive director shall be responsible for the performance of the administrative functions of the board and such other duties as the board may direct. The board may employ or contract with other persons as may be necessary to carry on the work of the board.

(8) The board shall be a nonprofit, quasi-governmental corporation subject to the Kentucky Open Records Law and Kentucky Open Meetings Law. The board shall have any and all general corporate, trust, or other powers reasonable or necessary to fulfill the requirements and purposes of Sections 1 to 8 of this Act.

(9) The provisions of Sections 1 to 8 of this Act shall be funded by any grants, gifts, and contributions received by the board or other general funds appropriated by the General Assembly.

SECTION 3. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) The board shall:

(a) Solicit grants, gifts, and contributions from public or private sources, including federal funding, to carry out the purposes of Sections 1 to 8 of this Act;

(b) Make disbursements as set forth under Sections 1 to 8 of this Act;

(c) Establish and administer an application process, criteria, and procedures for making awards of grants to nursing education programs, nursing employer consortiums, and nursing employer associations for the recruitment of students and training of registered nurses and licensed practical nurses;

(d) Establish and administer an application process, criteria and procedures for awarding scholarships or loan repayment assistance to registered nurses pursuing advanced degrees to become nursing faculty;

(e) Establish and administer an application process, criteria and procedures for hospitals that provide nursing scholarships to receive matching funds;

(f) Obtain an annual audit of the funds received and disbursed;

(g) Allocate the funding received in a manner that the board determines to best promote the assurance of an adequate number of licensed nurses to meet the health care needs of the residents of Kentucky; and

(h) Report annually to the Legislative Research Commission on its activities, the plans it receives from nursing schools to address the nursing shortage, and summary information on the disbursement of funds.

(2) The board may structure scholarship, matching funds, and loan repayment programs as necessary to secure funds available under federal matching programs.

SECTION 4. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

All funds allocated to and received by the board under the provisions of Sections 1 to 8 of this Act shall be paid into the State Treasury and credited to a trust and agency account that shall not lapse. No part of this fund shall revert to the general fund of the Commonwealth. All investment earnings of the fund shall be credited to the fund. The fund shall be used solely by the board for the purposes set out in Sections 1 to 8 of this Act and for meeting reasonable and necessary expenses incurred by the board in the performance of its duties in carrying out the purposes.

SECTION 5. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) The board shall make grants available to public and private nursing education programs located in Kentucky and employer organizations for recruitment of students and for training registered nurses or licensed practical nurses.

(2) The board shall establish requirements for the receipt of funds that shall include, but not be limited to, requirements that a grant from the board shall be:

(a) Expended exclusively on costs related to:

1. Enrolling additional students in nursing programs;

2. Increasing the number of faculty through recruitment and retention efforts including, but not limited to, providing faculty salaries and assisting hospitals that provide adjunct faculty for nursing education programs from hospital personnel;

3. The recruitment of students, including but not limited to the recruitment of culturally diverse students; and

4. The provision of skills development to enhance the skills of licensed nurses;

(b) If granted to increase nursing school enrollments, contingent on the nursing program's ability to enroll additional students, including but not limited to having the necessary classroom space and clinical rotational sites; and

(c) Supported by a detailed annual accounting of fund expenditures and achievement of desired outcomes.

(3) Funds awarded but not expended shall be returned to the board.

SECTION 6. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

The board shall establish and administer a matching fund program under which a hospital licensed under KRS Chapter 216B may sponsor a professional nursing student or a practical nursing student currently enrolled in an approved nursing program by contributing to the costs of the student's education and having that contribution matched in whole or in part by funds *received by the board. The board shall establish requirements for administration of the matching fund program including, but not limited to:*

(1) Consideration of a hospital's nursing vacancy rate in determining whether to award funds and the amount of such award;

(2) Eligibility criteria for matching fund recipients, which shall include a requirement that the recipient work for the sponsoring facility for a prescribed time period commensurate with the funding received by the board and the employer;

(3) The minimum and maximum employer contribution that will be matched;

(4) A process that promotes awarding matching funds for students enrolled in the level of nursing education for which there is the greatest need;

(5) A defined process for matching fund recipients to pay back funds when obligations related to employment are not met;

(6) A process that defines the reporting requirement of employers who receive matching funds; and

(7) A process that maximizes a culturally diverse number of nursing students.

SECTION 7. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

The board shall establish and administer a scholarship program and a loan repayment program to prepare nurses to assume faculty positions in nursing education programs located in Kentucky. The board shall establish program requirements that include, but are not limited to:

(1) Eligibility criteria for scholarships and loan repayments which require recipients to be registered nurses enrolled in a Kentucky program designed to lead to a master's degree or other higher degree in nursing and requires their commensurate commitment to teach in a program in Kentucky designed to prepare students for licensure as a registered or licensed practical nurse;

(2) The minimum and maximum annual awards per student for scholarships and loan repayments;

(3) A defined process for pay back of scholarships and loan repayments when the recipient fails to comply with obligations related to employment as faculty in nursing education programs; and

(4) A process whereby nursing educational institutions shall report on the academic performance of scholarship and loan repayment recipients.

SECTION 8. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

Each school of nursing as defined under KRS 314.011 that is located in Kentucky, whether or not awarded funding under Sections 1 to 8 of this Act, shall submit an annual report by August 1 to the board, the Kentucky Board of Nursing, the Council on Postsecondary Education, the Cabinet for Workforce Development, and the Legislative Research Commission detailing its strategies for increasing the enrollment of students who graduate from the program prepared for licensure as registered nurses or licensed practical nurses. Efforts undertaken by each school to increase cultural diversity within its nursing students shall be included in the annual report to the board.

The Committee Substitute to **SB 289** is as follows:

SB 289, AN ACT relating to the Nursing Workforce Foundation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds and declares that:

(1) Kentucky is experiencing a nursing shortage that, without proactive intervention, could have serious consequences for the delivery of health care in the state;

(2) With the average age of registered nurses in Kentucky at forty-four (44) years and the average age for licensed practical nurses at forty-nine (49) years, an adequate number of new nurses will be needed to replace the aging nursing workforce;

(3) The current number of students will not be enough to meet the state's future needs for nurses;

(4) The age of nursing educators continues to rise and nursing schools are finding it increasingly more difficult to attract qualified educators;

(5) Changes in the delivery of care and more employment options becoming available to nurses that did not exist previously are making it difficult for employers of nurses to recruit and retain an adequate number of qualified nursing personnel;

(6) Educational institutions must be involved in addressing the shortage but require financial assistance to support the costs associated with program changes, expansions, or both;

(7) Financial assistance is needed to help employers provide scholarships and develop and implement innovative recruitment and retention strategies;

(8) The state has a role in helping to support and finance activities directed toward increasing the supply of nurses; and

(9) A foundation should be established to receive grants, contributions, federal funding, and appropriations for the purpose of making awards to educational institutions, nurses seeking graduate degrees, nursing employers, nursing employer consortiums, and nursing employer associations to meet the workforce needs for licensed nurses in the state.

SECTION 2. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) As used in Sections 1 to 8 of this Act, "board" means the board of the Nursing Workforce Foundation.

(2) The Nursing Workforce Foundation is created and shall be governed by a board comprised of members who are residents of Kentucky appointed by the Governor.

(3) The foundation shall be governed by a board, the membership of which shall consist of the following:

- *(a) President, or a designee, of the Kentucky Community and Technical College System;*
- *(b) President, or a designee, of the Association of Independent Kentucky Colleges and Universities;*
- *(c) President, or a designee, of the Council on Postsecondary Education;*
- *(d) Secretary, or a designee, of the Kentucky Cabinet for Workforce Development;*
- *(e) Executive Director, or a designee, of the Kentucky Board of Nursing;*
- *(f) President, or designee, of the Kentucky Nurses Association; and*
- *(g) Two (2) members from a list of three (3) individuals recommended by the Kentucky Hospital Association, with one (1) representing a rural hospital and one (1) representing an urban hospital.*

(4) The board shall elect a chairman from its members. The board shall meet at least four (4) times a year and at the call of the chairman or a majority of the board members. A majority of the board membership shall constitute a quorum.

(5) Each hospital representative appointment shall be for a term of four (4) years. A vacancy on the board shall be filled by the Governor as provided under this section.

(6) Members of the board shall be entitled to reimbursement for expenses when carrying out official duties of the board in accordance with state administrative regulations relating to travel reimbursement.

(7) The board shall employ or contract with a qualified person or nonprofit organization to serve as executive director to the board and shall fix the compensation and define the duties. The executive director shall be responsible for the performance of the administrative functions of the board and such other duties as the board may direct. The board may employ or contract with other persons as may be necessary to carry on the work of the board.

(8) The board shall be a nonprofit, quasi-governmental corporation subject to the Kentucky Open Records Law and Kentucky Open Meetings Law. The board shall have any and all general corporate, trust, or other powers reasonable or necessary to fulfill the requirements and purposes of Sections 1 to 8 of this Act.

(9) The provisions of Sections 1 to 8 of this Act shall be funded by any grants, gifts, and contributions received by the board or other general funds appropriated by the General Assembly.

SECTION 3. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) The board shall:

- *(a) Solicit grants, gifts, and contributions from public or private sources, including federal funding, to carry out the purposes of Sections 1 to 8 of this Act;*
- *(b) Make disbursements as set forth under Sections 1 to 8 of this Act;*
- *(c) Establish and administer an application process, criteria, and procedures for making awards of grants to nursing education programs, nursing employer consortiums, and nursing employer associations for the recruitment of students and training of registered nurses and licensed practical nurses;*
- *(d) Establish and administer an application process, criteria and procedures for awarding scholarships or loan repayment assistance to registered nurses pursuing advanced degrees to become nursing faculty;*
- *(e) Establish and administer an application process, criteria and procedures for hospitals that provide nursing scholarships to receive matching funds;*
- *(f) Obtain an annual audit of the funds received and disbursed;*
- *(g) Allocate the funding received in a manner that the board determines to best promote the assurance of an adequate number of licensed nurses to meet the health care needs of the residents of Kentucky; and*
- *(h) Report annually to the Legislative Research Commission on its activities, the plans it receives from nursing schools to address the nursing shortage, and summary information on the disbursement of funds.*

(2) The board may structure scholarship, matching funds, and loan repayment programs as necessary to secure funds available under federal matching programs.

SECTION 4. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

All funds allocated to and received by the board under the provisions of Sections 1 to 8 of this Act shall be paid into the State Treasury and credited to a trust and agency account that shall not lapse. No part of this fund shall revert to the general fund *of the Commonwealth. All investment earnings of the fund shall be credited to the fund. The fund shall be used solely by the board for the purposes set out in Sections 1 to 8 of this Act and for meeting reasonable and necessary expenses incurred by the board in the performance of its duties in carrying out the purposes.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) The board shall make grants available to public and private nursing education programs located in Kentucky and employer organizations for recruitment of students and for training registered nurses or licensed practical nurses.

(2) The board shall establish requirements for the receipt of funds that shall include, but not be limited to, requirements that a grant from the board shall be:

(a) Expended exclusively on costs related to:

1. Enrolling additional students in nursing programs;

2. Increasing the number of faculty through recruitment and retention efforts including, but not limited to, providing faculty salaries and assisting hospitals that provide adjunct faculty for nursing education programs from hospital personnel;

3. The recruitment of students, including but not limited to the recruitment of culturally diverse students; and

4. The provision of skills development to enhance the skills of licensed nurses;

(b) If granted to increase nursing school enrollments, contingent on the nursing program's ability to enroll additional students, including but not limited to having the necessary classroom space and clinical rotational sites; and

(c) Supported by a detailed annual accounting of fund expenditures and achievement of desired outcomes.

(3) Funds awarded but not expended shall be returned to the board.

SECTION 6. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

The board shall establish and administer a matching fund program under which a hospital licensed under KRS Chapter 216B may sponsor a professional nursing student or a practical nursing student currently enrolled in an approved nursing program by contributing to the costs of the student's education and having that contribution matched in whole or in part by funds received by the board. The board shall establish requirements for administration of the matching fund program including, but not limited to:

(1) Consideration of a hospital's nursing vacancy rate in determining whether to award funds and the amount of such award;

(2) Eligibility criteria for matching fund recipients, which shall include a requirement that the recipient work for the sponsoring facility for a prescribed time period commensurate with the funding received by the board and the employer;

(3) The minimum and maximum employer contribution that will be matched;

(4) A process that promotes awarding matching funds for students enrolled in the level of nursing education for which there is the greatest need;

(5) A defined process for matching fund recipients to pay back funds when obligations related to employment are not met;

(6) A process that defines the reporting requirement of employers who receive matching funds; and

(7) A process that maximizes a culturally diverse number of nursing students.

SECTION 7. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

The board shall establish and administer a scholarship program and a loan repayment program to prepare nurses to assume faculty positions in nursing education programs located in Kentucky. The board shall establish program requirements that include, but are not limited to:

(1) Eligibility criteria for scholarships and loan repayments which require recipients to be registered nurses enrolled in a Kentucky program designed to lead to a master's degree or other higher degree in nursing and requires their commensurate commitment to teach in a program in Kentucky designed to prepare students for licensure as a registered or licensed practical nurse;

(2) The minimum and maximum annual awards per student for scholarships and loan repayments;

(3) A defined process for pay back of scholarships and loan repayments when the recipient fails to comply with obligations related to employment as faculty in nursing education programs; and

(4) A process whereby nursing educational institutions shall report on the academic performance of scholarship and loan repayment recipients.

SECTION 8. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

Each school of nursing as defined under KRS 314.011 that is located in Kentucky, whether or not awarded funding under Sections 1 to 8 of this Act, shall submit an annual report by August 1 to the board, the Kentucky Board of Nursing, the Council on Postsecondary Education, the Cabinet for Workforce Development, and the Legislative Research Commission

detailing its strategies for increasing the enrollment of students who graduate from the program prepared for licensure as registered nurses or licensed practical nurses. Efforts undertaken by each school to increase cultural diversity within its nursing students shall be included in the annual report to the board.

SCR 185, A CONCURRENT RESOLUTION directing the Interim Joint Committee on Health and Welfare to establish a subcommittee to study issues related to prescription drug coverage for seniors.

WHEREAS, prescription drug expenditures increased by 17% during 1999 and are expected to continue to increase at 15-18% annually; and

WHEREAS, Americans ages 65 and older pay an average of $1,205 a year for prescription medications, up from $559 in 1992; and

WHEREAS, over 158,000 Kentucky seniors do not have prescription drug coverage; and

WHEREAS, Medicare, the primary payor of health coverage for seniors, does not cover prescription drugs; and

WHEREAS, approximately 27 percent of Medicare beneficiaries do not have prescription drug coverage; and

WHEREAS, most Medicare beneficiaries use pharmaceuticals on a regular basis, filling about 22 prescriptions on average in 1998; and

WHEREAS, Medicare beneficiaries without drug coverage average about eight fewer prescriptions per year than those with coverage, and those with poor health average about 15 fewer prescriptions than those with coverage; and

WHEREAS, prescription drugs positively affect health outcomes and result in decreased utilization of other more expensive health services, including emergency room utilization and hospitalization; and

WHEREAS, it is in the interest of the seniors of Kentucky to explore options to enhance access to prescription drug coverage;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The Interim Joint Committee on Health and Welfare is directed to establish a subcommittee to study issues relating to prescription drug coverage for seniors. The study shall include but not be limited to the following:

(1) Explore various options to promote access to prescription drug coverage for seniors, including but not limited to state funded programs, Medicaid expansions, insurance subsidies, discount programs, bulk purchasing programs, and insurance subsidies;

(2) Analysis of other states' senior prescription drug programs;

(3) Identification of funding sources for prescription drug coverage for seniors; and

(4) Discussion of federal proposals to fund prescription drug coverage for seniors.

Section 2. The subcommittee shall consist of the following members:

(1) The co-chairs of the Interim Joint Committee on Health and Welfare. The co-chairs, or his or her respective designee, shall serve as co-chairs of the subcommittee; and

(2) Three members of the Senate and three members of the House of Representatives, appointed by the Legislative Research Commission from a list recommended by the co-chairs of the Interim Joint Committee on Health and Welfare.

Section 3. The subcommittee shall invite representatives from governmental agencies and interested parties to provide input into the study, including but not limited to representation from the following:

(1) Kentucky Association of Health Plans;

(2) Kentucky Association of Gerontology;

(3) American Association of Retired Persons, Kentucky State Office;

(4) Kentucky Pharmacists Association;

(5) Special Advisory Commission of Senior Citizens;

(6) Kentucky Medical Association;

(7) Office on Aging Services;

(8) Department for Medicaid Services;

(9) Long-term care ombudsman; and

(10) Kentucky Hospital Association.

Section 4. The subcommittee shall submit a final report to the Legislative Research Commission no later than November 1, 2002.

Section 5. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Local Government reported **SB 100, SB 126,** and **SB 242** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 100, AN ACT relating to the reimbursement of training costs of law enforcement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) (a) City and county law enforcement agencies, including sheriff's offices, may, as a condition of employment, require a newly appointed deputy sheriff or peace officer who will participate in the Kentucky Law Enforcement Foundation Fund Program, authorized by KRS 15.410 to 15.510, to enter into an employment contract for a period of no longer than three (3) years from the date of graduation from the Department of Criminal Justice Training, or other training approved by the Kentucky Law Enforcement Council.

(b) If a deputy sheriff or peace officer who has entered into a contract authorized under this subsection accepts employment as a peace officer with another law enforcement agency, that law enforcement agency shall reimburse the law enforcement agency that initially hired the deputy sheriff or peace officer for the actual costs incurred and expended which are associated with the initial hiring of that officer, including, but not limited to, the application process, training costs, equipment costs, salary and fringe benefits. The law enforcement agency that initially hired the deputy sheriff or peace officer shall be reimbursed for the costs from the time of the deputy sheriff or peace officer's initial application until graduation from the Department of Criminal Justice Training.

(c) The amount of reimbursement authorized by this subsection shall be prorated based upon the percentage of time that the deputy sheriff or peace officer completed of his or her employment contract. The amount of reimbursement authorized by this subsection after the pro rata amount is calculated shall be reduced by the cost of the training provided by the Department of Criminal Justice Training for the subject officer.

(2) If a peace officer who has been employed by a state law enforcement agency for three (3) years or less accepts employment as a peace officer with a city or local law enforcement agency that city or local law enforcement agency shall reimburse the state law enforcement agency that initially hired the peace officer for the costs expended with the initial hiring of that officer, including, but not limited to, the application process, training costs, equipment costs, salary and fringe benefits. The state law enforcement agency that initially hired the peace officer shall be reimbursed for the costs incurred and expended from the time of the peace officer's initial application until graduation from a Kentucky Law Enforcement Council approved training academy. The amount of reimbursement authorized by this subsection shall be prorated based upon the percentage of time that the peace officer has been employed.

SB 126, AN ACT relating to the payment of individual financial obligations to counties and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.840 is amended to read as follows:

(1) Except for taxes collected on behalf of the state for which standard receipt forms had been supplied by the state prior to 1974, all county officials shall, upon the receipt of any fine, forfeiture, tax, or fee, prepare a receipt that meets the specifications of the state local finance officer, if the fine, forfeiture, tax, or fee is paid:

  (a) In cash;

  (b) By a party appearing in person to pay; or

  (c) By check, credit card, or debit card account received through the mail, if the party includes an addressed, postage-paid return envelope and a request for receipt.

(2) One (1) copy of the receipt shall be given to the person paying the fine, forfeiture, tax, or fee and one (1) copy shall be retained by the official for his own records. One (1) copy of the receipt shall be retained by the official to be placed with the daily bank deposit.

(3) A county government may, but shall not be required to, accept payment of any fine, forfeiture, tax, or fee by debit or credit card account. If an individual chooses to pay a fine, forfeiture, tax, or fee by debit or credit card account, the county

government *may*[~~shall~~] recover the transaction fee charged by the issuer of the account as part of and in addition to the original amount of the fine, forfeiture, tax, or fee.

Section 2. Whereas a large volume of the payments received for fines or taxes made by credit or debit card occur prior to the normal effective date of legislation and transaction fees are required to be included in the payment, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or its otherwise becoming a law.

SB 242, AN ACT relating to the transportation of persons for hire.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "local government" means the governing body of:

- *(a) A consolidated local government organized under KRS Chapter 67C; or*
- *(b) An urban-county government organized under KRS Chapter 67A.*

(2) Notwithstanding any other provision of this chapter, a local government that complies with the requirements of this section may be granted authority over the regulation of taxicabs in that local government's jurisdiction.

(3) A local government that desires to regulate taxicab service within its jurisdiction shall:

- *(a) Adopt a resolution by October 1 of any given year expressing its intent to exercise regulatory authority over taxicabs and requesting that the Transportation Cabinet grant the local government regulatory authority over taxicabs; and*
- *(b) Enact an ordinance by January 1 of the following year pursuant to subsection (4) of this section and submit it to the cabinet for approval pursuant to subsection (5) of this section.*

(4) A local government that desires to regulate taxicab service within its jurisdiction shall adopt an ordinance regarding the regulation of taxicabs which addresses the following areas of public comfort, safety, and convenience:

- *(a) A local taxicab permit system to ensure the safety and road worthiness of each taxicab as outlined in Section 2 of this Act, including inspection requirements, out-of-service criteria, and penalties for submitting fraudulent service records. All taxicabs operated under this section shall be required to be registered and display registration plates under the provisions of KRS Chapters 186 and 186A;*
- *(b) A local taxicab driver permit system to ensure the fitness of drivers, including criminal background checks, display of permits, and revocation or suspension of local driver permits. All drivers of taxicabs operated under this section shall be required to possess a motor vehicle operator's license under the provisions of KRS Chapter 186;*
- *(c) Rates and fares, and receipts therefor;*
- *(d) Procedures for considering applications from a permit holder to change the number of taxicabs that a taxi permit holder has in operation;*
- *(e) Procedures for the sale, transfer, and leasing of taxicab permits;*
- *(f) Routes and areas of service, including changes of route or abandonment of service areas;*
- *(g) Dispatching of taxicabs;*
- *(h) Bonding and liability insurance requirements which shall not be less than those requirements in KRS 281.655(4);*
- *(i) Handling of claims for loss, damage, or injury;*
- *(j) Fees to be paid by taxicab permit holders;*
- *(k) Record keeping required by permit holders and drivers, including trip records;*
- *(l) Hearing and appeals processes;*
- *(m) Taxicab permit renewal procedures;*
- *(n) Competition in the market; and*
- *(o) Penalties for the operation of unlicensed taxicabs, and for any other violations.*

(5) Before granting a local government's request to regulate taxicab service, the cabinet shall review the ordinance passed by the local government and determine that the required elements of subsection (4) of this section are properly addressed. If the cabinet determines that the ordinance meets the requirements of subsection (4) of this section, the cabinet shall grant regulatory authority over taxicab service in that jurisdiction to the local government.

(6) If, at any time, the cabinet determines that a local government granted regulatory control over taxicab service under this section is not providing adequate control over that service, the cabinet may revoke the regulatory authority it granted to the local government under this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "taxicab" means a vehicle operating under:

(a) A local taxicab permit issued by a local government in accordance with Section 1 of this Act;

(b) A city taxicab certificate issued by the department under this chapter; or

(c) A county taxicab certificate issued by the department under this chapter.

(2) All taxicabs operating under a permit issued by a local government in accordance with Section 1 of this Act or a certificate issued by the department under this chapter shall undergo an annual safety inspection. The inspection shall be performed by an automotive technician who holds a valid automotive service excellence (a.s.e.) certification recognized by the department.

(3) All taxicab operators shall, when applying for or renewing a taxicab permit or certificate, file proof with the department or local government that each taxicab to be operated under the permit or certificate has successfully passed a safety inspection. The inspection shall be performed by an automotive technician who holds a valid automotive service excellence (a.s.e.) certification recognized by the department.

(4) A local government with regulatory authority under Section 1 of this Act shall enact an ordinance and the department shall promulgate administrative regulations under KRS Chapter 13A to establish safety and out-of-service criteria for a taxicab that it regulates that fails to successfully pass the annual safety inspection required by subsection (2) of this section. The department or local government shall immediately reinstate a taxicab taken out-of-service under this subsection upon receipt of written proof documenting that the deficiencies causing the taxicab to fail the annual safety inspection have been corrected.

(5) The department or local government shall have the authority to revoke the taxicab certificate or permit of, and to permanently deny a taxicab certificate or permit to, any person who willfully and intentionally files a fraudulent safety inspection record for any taxicab.

SECTION 3. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

If the Transportation Cabinet grants a local government regulatory authority over taxicabs under Section 1 of this Act, the local government shall grant an existing certificate holder a local taxicab permit for the number of vehicles the certificate holder has in effect on the date the local government is granted regulatory authority, provided the vehicles meet the safety requirements outlined in Section 2 of this Act. Renewal of the permit shall be subject to the local ordinance passed pursuant to Section 1 of this Act.

The Committee on Agriculture and Small Business reported **SB 180,** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 180, AN ACT relating to licensing veterinarians.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 321.211 is amended to read as follows:

(1) Each person licensed as a veterinarian shall[~~ annually~~], on or before September 30 ***of each even-numbered year***, pay to the board a renewal fee to be promulgated by administrative regulation of the board for the renewal of his license. All licenses not renewed by September 30 of each ***even-numbered*** year shall expire based on the failure of the individual to renew in a timely manner.

(2) A sixty (60) day grace period shall be allowed after September 30, ***as required for renewal in subsection (1) of this section,*** during which time individuals may renew their licenses upon payment of the renewal fee plus a late renewal fee as promulgated by administrative regulation of the board. All licenses not renewed by November 30 shall terminate based on the failure of the individual to renew in a timely manner. Upon termination, the licensee is no longer eligible to practice in the Commonwealth.

(3) After the sixty (60) day grace period, individuals with a terminated license may have their licenses reinstated upon payment of the renewal fee plus a reinstatement fee as promulgated by administrative regulation of the board. No person who applies for reinstatement after termination of his license shall be required to submit to any examination as a condition for reinstatement, if reinstatement application is made within five (5) years from the date of termination.

(4) A suspended license is subject to expiration and termination and shall be renewed as provided in this chapter. Renewal shall not entitle the licensee to engage in the practice until the suspension has ended, or is otherwise removed by the board and the right to practice is restored by the board.

(5) A revoked license is subject to expiration or termination but may not be renewed. If it is reinstated, the licensee shall pay the reinstatement fee as set forth in subsection (3) of this section and the renewal fee as set forth in subsection (1) of this section.

(6) A person who fails to reinstate his license within five (5) years after its termination may not have it renewed, restored, reissued, or reinstated. A person may apply for and obtain a new license by meeting the current requirements of this chapter.

(7) The board may require that a person applying for renewal or reinstatement of licensure show evidence of completion of continuing education as prescribed by the board by administrative regulation.

The Committee Amendment No. 1 to **SB 180** is as follows:

On page 2, after line 7, by inserting:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) It is the intent of the General Assembly to establish a scholarship program to provide eligible Kentucky students the opportunity to attend an accredited school of veterinary medicine under contract with the Commonwealth and become certified veterinarians rendering service in underserved areas in the Commonwealth. For purposes of this section "underserved area" means a county or counties with ten (10) or fewer veterinarians per one hundred thousand (100,000) people or a deficiency of a specific category of veterinary practice like food animal, equine, or small animal determined by the species and number of animals in the county.

(2) The Kentucky Higher Education Assistance Authority may award scholarships, to the extent funds are available for that purpose, to persons who declare an intent to become veterinarians and practice in an underserved area in the Commonwealth and who are eligible under subsection (3) of this section.

(3) The authority may award scholarships to students who meet the following criteria:

(a) Kentucky residents who are United States citizens as determined by the Council on Postsecondary Education for the purposes of admission and tuition assessment;

(b) Students who are enrolled or accepted for enrollment in an eligible program of study accredited by the American Veterinary Medical Association's Council on Education, on a full-time basis, or eligible students who have a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability;

(c) Students who agree to render one (1) year of qualified service in an underserved area of the Commonwealth for each year the scholarship was awarded. "Qualified service" means a full-time practice in the Commonwealth of Kentucky as a licensed doctor of veterinary science for a majority of the calendar year except that an individual having a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., whose disability, certified by another licensed physician, prevents him or her from practicing full-time, shall be deemed to perform qualified service by practicing the maximum time permitted by the attending physician; and

(d) Students who sign a promissory note as evidence of the scholarship awarded and the obligation to repay the scholarship amount or render medical service as agreed in lieu of payment.

(4) The amount of the scholarship awarded to an eligible student by the authority shall be determined by the Kentucky Higher Education Assistance Authority.

(5) The authority shall require a promissory note to be executed by the student as evidence of the obligation. The recipient shall render one (1) year of qualified service for each year the scholarship was awarded. Upon completion of each year of qualified service, the authority shall cancel the appropriate number of promissory notes. Promissory notes shall be canceled by qualified service in the order in which the promissory notes were executed. Service credit shall not include residency service. In the event a recipient fails to complete an eligible program of study, or fails to render qualified veterinary service as agreed in subsection (3) of this section, the recipient shall be liable for the total repayment of the amount of the scholarship awarded.

(6) A scholarship shall not be awarded or a promissory note cancellation shall not be granted to any person who is in default on any obligation to the authority under any program administered by the authority under KRS 164.740 to 164.785 until financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.

(7) A repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of executing the promissory note.

(8) Failure to meet repayment obligations imposed by this section shall be cause for the revocation of the scholarship recipient's license to practice medicine, subject to the procedures set forth in KRS Chapter 311.

(9) Notwithstanding KRS 164.753(3), the authority shall establish by administrative regulation procedures for the administration of this program, including the execution of appropriate contracts and promissory notes, cancellation of the obligation, repayment of outstanding debt, and the priority of awarding scholarships if funds are insufficient to honor all requests.

(10) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a promissory

note under this section shall be twelve percent (12%) per annum, except that if a judgment is rendered to recover payment, the judgment shall bear interest at the rate of five percent (5%) greater than the rate actually charged on the promissory note.

(11) (a) The "Veterinary Medicine Scholarship Program fund" is hereby created as a special trust fund in the State Treasury administered by the Kentucky Higher Education Assistance Authority for the purpose of providing funds for scholarships to eligible students studying veterinary medicine in schools under contract with the Commonwealth.

(b) The trust fund may receive state appropriations, gifts, and grants from public and private sources, and federal funds. Any unallotted or unencumbered balances in the trust fund shall be invested as provided in KRS 42.500(9). Income earned from the investments shall be credited to the trust fund. Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year and continuously appropriated only for the purposes specified in this section. A general statement that all continuing appropriations are repealed, discontinued, or suspended shall not operate to repeal, discontinue, or suspend this fund or to repeal this section.

Section 3. Scholarships under Section 2 of this Act may be awarded beginning with the 2003-2004 academic year.".

The Committee Amendment No. 2 Title to **SB 180** is as follows:

Amend the title to read as follows: "AN ACT relating to veterinarians."

Calendar

SB 99, SB 166, SB 254, SB 243, SCR 142, HB 825, HB 864, HB 432, SB 111, SB 222, SB 227, SB 123, SB 195, and **SB 234** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative McKee moved to suspend the rules and to grant floor privileges and to act on a Resolution. Agreed.

Representative McKee moved the adoption of the following **HR 248**:

HR 248, A RESOLUTION adjourning the House of Representatives in honor of Anna Meyers Ross McKee upon the occasion of her ninetieth birthday on March 21, 2002.

WHEREAS, Anna Meyers Ross McKee, a native of Berry, Harrison County, Kentucky, was born on March 21, 1912, at historic Stoney Castle which belonged to her family; and

WHEREAS, Anna Meyers Ross McKee entered into the bonds of holy matrimony with William M. McKee on February 11, 1936; and

WHEREAS, Anna Meyers Ross McKee is the adored mother of three children, William R. McKee and his wife, Barbara M. McKee, Thomas M. McKee and his wife, Sue K. McKee, and Elizabeth M. Clyde and her husband, James S. Clyde; and

WHEREAS, Anna Meyers Ross McKee is the proud grandmother of five loving grandchildren, Kathryn B. McKee, James T. McKee, William R. McKee, Jr., Susanna R. Clyde, and Melinda M. Clyde; and four great-grandchildren, Clay T. McKee, Colby P. McKee, Cade H. McKee, and Anna K. Samonds; and

WHEREAS, Anna Meyers Ross McKee is an esteemed member of the Harrison County community where she is owner of McKee Farms which has been in the McKee family for over 100 years, and where she is in family partnership with her son; throughout her life, she has devoted countless hours to numerous charitable and civic organizations; she is a devout member of the Cynthiana Presbyterian Church, where she was a Sunday School teacher, a trustee, and president of the Women of the Church; she is a member of the Daughters of the American Revolution, the Democratic Woman's Club, the Extension Homemaker Club, and the Garden Club; and she is an avid sports fan, and has probably seen more football games than any other woman in the Commonwealth; and

WHEREAS, on March 21, 2002, Anna Meyers Ross McKee will celebrate her ninetieth birthday;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives is pleased and honored to recognize Anna Meyers Ross McKee upon the occasion of her ninetieth birthday on March 21, 2002, and wishes to her on this glorious occasion, a day of celebration, rejoicing, and reminiscing with her loving family and friends.

Section 2. When the House of Representatives adjourns this day, March 21, 2002, it does so in honor of Anna Meyers Ross McKee upon the occasion of her ninetieth birthday.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Thomas McKee for presentation to his mother, Anna Meyers Ross McKee.

There being no objection **HR 248** was adopted.

The roll call was opened for co-sponsors and on the roll call the vote was **Yeas 95**. (See March 21, 2002, roll call to show co-sponsors of **HR 248** - Appendix)

Representative Denham moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Denham moved the adoption of the following **Legislative Citation No. 102**.

The House of Representatives of the Commonwealth of Kentucky hereby honors and commends the talented members of the Fleming County High School Boys and Girls Indoor Track Teams for phenomenal athletic performance that resulted in the girls team winning the Mason-Dixon Indoor Track State Championship title and the boys team winning its second consecutive state championship title and its fifth in the past seven years at the Mason-Dixon Indoor Track State Championship Meet. Under the skilled tutelage of Coach Woodie Jamison, these gifted athletes have demonstrated extraordinary talent, dedication and sportsmanship and have richly added to the winning tradition associated with the FCHS athletic program. The entire membership of this distinguished body is delighted to join with Representative Mitchel Denham in applauding the members of the Fleming County High School Boys and Girls Indoor Track Teams for the honor and acclaim they have brought both school and community by the effort put forth in this most worthwhile endeavor and in extending best wishes for continued athletic victories. Done in Frankfort, Kentucky, this twenty-first day of March, in the year two thousand and two.

Legislative Citation No. 102 was adopted without objection.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 14, SB 86, SB 170, SJR 42, SB 4, SB 26, SB 74, SB 90, SB 117,** and **SCR 17** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:40 p.m.)

The Committee on Enrollment reported that **HB 57, HB 98,** and **HB 383** were delivered to the Senate and signed by the President. Delivered to the Governor on March 21, 2002, at 2:42 p.m.

Representative Stumbo moved to waive the posting requirement retroactively on the following: **SB 207**. Agreed.

Representative Stumbo moved to waive the posting requirement on the following: **HB 733**. Agreed.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for the Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs to meet and for a Committee on Rules meeting. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved to suspend the rules to allow for a Rules Committee report and the Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **SB 152, SB 123, SB 166,** and **SB 195** have been posted for passage in the Orders of the Day for March 22, 2002.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **SB 234**

The Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs report was not available.

Recess

Representative Stumbo moved to recess for Minority and Majority Caucus meeting. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 258, HB 339, HCR 56, HCR 65,** and **HJR 77** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 4:50 p.m.)

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 314:** Representatives Hoffman, Chair; Simpson, J. Adams, and Vincent.

Orders of the Day

SB 147, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Colter moved the adoption of Floor Amendment No. 1 to **SB 147**. Agreed.

Representative Rasche moved that **SB 147**, as amended, be passed.

On the roll call the vote was: **Yeas 90, Nays 1**. (See March 21, 2002, roll call on **SB 147** - Appendix.)

SB 147, as amended, was passed.

Representative Rasche moved the adoption of Floor Amendment No. 2 Title to **SB 147**. Agreed.

Representative Rasche moved that the vote by which **SB 147**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 133 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved that **SB 133** be passed.

On the roll call the vote was: **Yeas 90, Nays 0**. (See March 21, 2002, roll call on **SB 133** - Appendix.)

SB 133 was passed and the title agreed to.

Representative Stein moved that the vote by which **SB 133** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 138, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeWeese moved the adoption of the Committee Substitute to **SB 138**. Agreed.

Representative DeWeese moved that **SB 138**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 21, 2002, roll call on **SB 138** - Appendix.)

SB 138, by way of Committee Substitute, was passed and the title agreed to.

Representative DeWeese moved that the vote by which **SB 138**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 178 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Belcher moved that **SB 178** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 21, 2002, roll call on **SB 178** - Appendix.)

SB 178 was passed and the title agreed to.

Representative L. Belcher moved that the vote by which **SB 178** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 36 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved that **SB 36** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 21, 2002, roll call on **SB 36** - Appendix.)

SB 36 was passed and the title agreed to.

Representative Westrom moved that the vote by which **SB 36** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 101, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold stated that Floor Amendment No. 1 to **SB 101** is a piggyback amendment and moved that the rules be suspended and it be considered.

On the roll call the vote was: **Yeas 91, Nays 1**. (See March 21, 2002, roll call on **SB 101** - Appendix.)

The motion to consider Floor Amendment No. 1 to **SB 101** was agreed to.

Representative A. Arnold moved the adoption of Floor Amendment No. 1 to **SB 101**. Agreed.

Floor Amendment No. 1 to **SB 101**, was adopted.

Representative Jenkins moved that **SB 101**, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 21, 2002, roll call on **SB 101** - Appendix.)

SB 101, as amended, was passed.

Representative Jenkins moved the adoption of Committee Amendment No. 2 Title to **SB 101**. Agreed.

Representative Jenkins moved that the vote by which **SB 101**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 113 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoover moved that **SB 113** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 21, 2002, roll call on **SB 113** - Appendix.)

SB 113 was passed and the title agreed to.

Representative Hoover moved that the vote by which **SB 113** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 134 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **SB 134** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 21, 2002, roll call on **SB 134** - Appendix.)

SB 134 was passed and the title agreed to.

Representative Geveden moved that the vote by which **SB 134** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 185, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **SB 185**. Agreed.

Representative Burch moved that **SB 185**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 21, 2002, roll call on **SB 185** - Appendix.)

SB 185, by way of Committee Substitute, was passed and the title agreed to.

Representative Burch moved that the vote by which **SB 185**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 769 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **HB 769** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 21, 2002, roll call on **HB 769** - Appendix.)

HB 769 was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 769** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 130 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved that **HCR 130** be adopted.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 21, 2002, roll call on **HCR 130** - Appendix.)

HCR 130 was adopted.

Representative Weaver moved that the vote by which **HCR 130** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 244 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pullin moved that **HCR 244** be adopted.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 21, 2002, roll call on **HCR 244** - Appendix.)

HCR 244 was adopted.

Representative Pullin moved that the vote by which **HCR 244** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 130, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Floor Amendment No. 1 to **SB 130**.

Representative Hoover inquired whether Floor Amendment No. 1 to **SB 130** was germane.

The Speaker ruled that Floor Amendment No. 1 to **SB 130** was not germane.

Representative Burch moved that **SB 130**, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 21, 2002, roll call on **SB 130** - Appendix.)

SB 130, was passed and the title agreed to.

Representative Burch moved that the vote by which **SB 130**, was passed be reconsidered and said motion be placed on the table. Agreed.

SCR 49 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Childers moved that **SCR 49** be adopted.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 21, 2002, roll call on **SCR 49** - Appendix.)

SCR 49 was adopted.

Representative Childers moved that the vote by which **SCR 49** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 781, with Committee Substitutes and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crenshaw moved the adoption of the Committee Substitute No. 2 to **HB 781**. Agreed.

Representative Crenshaw moved the adoption of Floor Amendment No. 1 to the Committee Substitute No. 2 to **HB 781**. Agreed.

Representative Crenshaw moved that **HB 781**, by way of Committee Substitute No. 2, as amended be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 21, 2002, roll call on **HB 781** - Appendix.)

HB 781, by way of Committee Substitute No. 2, as amended was passed and the title agreed to.

Representative Crenshaw moved that the vote by which **HB 781**, by way of Committee Substitute No. 2, as amended was passed be reconsidered and said motion be placed on the table. Agreed.

HB 67 with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non concurrence in Senate Amendment. Agreed.

The Senate Committee Substitute to **HB 67**, is as follows:

HB 67, AN ACT relating to nursing practice in health facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 212 IS CREATED TO READ AS FOLLOWS:

(1) The governing board for each local, district, and independent health department shall have a written policy concerning the distribution of nonscheduled legend drugs at the health department by an advanced registered nurse practitioner or a registered nurse. In a health department, an advanced registered nurse practitioner or a registered nurse may distribute nonscheduled legend drugs from a list that has been prepared by the commissioner of the Department for Public Health. Nothing in this section shall be construed to limit advanced registered nurse practitioners from dispensing nonscheduled drug samples under KRS 314.011. Each prescription drug distributed or dispensed at the health department shall be recorded in the patient record. The director of each health department shall be responsible for keeping track of the inventory of stock medications and accounting for the medications dispensed or distributed.

(2) Only a health department board having within its membership a pharmacist holding a valid license issued pursuant to KRS 315.030 shall be authorized to permit advanced registered nurse practitioners or registered nurses to dispense nonscheduled legend drugs according to the written policy of the board. If a health department is unable to recruit a licensed pharmacist to serve on the board, the board shall document consultation with a pharmacist licensed pursuant to KRS 315.030 in the public health practice of the health department.

(3) No health department shall dispense any medication or device prescribed for the purpose of causing an abortion as defined in KRS 311.720(1).

Section 2. KRS 212.020 is amended to read as follows:

(1) The secretary of the Cabinet for Health Services shall appoint, from a list of nominees, three (3) qualified, licensed, and practicing physicians; one (1) qualified, licensed, and practicing dentist; one (1) qualified, licensed, and practicing registered nurse; one (1) licensed engineer engaged in the practice of civil or sanitary engineering; one (1) qualified, licensed, and practicing optometrist; one (1) qualified licensed and practicing veterinarian; ***one (1) licensed pharmacist;*** and one (1) lay person knowledgeable in consumer affairs residing in each county who, together with the county judge/executive and one (1) person appointed by the fiscal court in each county, shall constitute a local board of health for the respective counties in which they reside. The list of nominees submitted to the secretary shall be accepted from any source and shall be solicited and obtained from the county judge/executive, fiscal court, and county health department staff; and nominations of physicians, dentists, nurses, engineers, optometrists,[~~ and~~] veterinarians***, and pharmacists*** shall be solicited and obtained from the county's medical society, dental society, nursing association, engineering association, optometric association, [~~and~~]veterinarian association, ***and pharmacists' association,*** respectively. If a county does not have three (3) qualified, licensed, and practicing physicians or one (1) qualified, licensed, and practicing dentist or one (1) qualified, licensed, and practicing registered nurse or one (1) qualified, licensed, and practicing civil or sanitary engineer or one (1) qualified, licensed, and practicing optometrist or one (1) qualified, licensed, and practicing veterinarian***, or one (1) licensed pharmacist*** residing therein, the secretary of the Cabinet for Health Services may appoint a resident lay person knowledgeable in consumer affairs in lieu thereof for each such vacancy. The members of the local board shall hold office for a term of two (2) years with physicians, dentists, ***pharmacists,*** and fiscal court appointees appointed in even-numbered years and nurses, engineers, optometrists, veterinarians, and lay appointees appointed in odd-numbered years, for terms from the date of their appointment, beginning on or after January 1, 1993, and until their successors are appointed, except the terms of the first appointment of all physician and fiscal court appointee terms beginning on January 1, 1993, shall expire on December 31, 1993; dentist terms beginning on August 1, 1992, shall expire on December 31, 1993; nurse, engineer, and optometrist appointments beginning on August 1, 1992, shall expire on December 31, 1994; and veterinarian and lay appointments beginning on October 1, 1992, shall expire on December 31, 1994. The members of the board shall receive no compensation for their services.

(2) The secretary shall remove any member, other than the county judge/executive or fiscal court appointee, who fails to attend three (3) consecutive scheduled meetings, and may remove any board member, except the county judge/executive or fiscal court appointee, as provided by KRS 65.007. The fiscal court may remove its appointee in like fashion.

Section 3. KRS 212.380 is amended to read as follows:

(1) Said board shall be composed of ten (10) members, two (2) of whom shall be the mayor of such city, and the county judge/executive of such county, as members ex officio, and four (4) of whom shall be appointed by the mayor of such city and four (4) of whom shall be appointed by the county judge/executive of such county with the approval of the fiscal court. Each appointive member shall be not less than thirty (30) years of age, intelligent, discreet, and shall have been a continuous resident of such county for at least two (2) years prior to the date of his or her appointment. At least one (1) and not more than three (3) of said appointive members shall be physicians, one (1) of said appointive members shall be a dentist, ***one (1) of said appointive members shall be a licensed pharmacist,*** and at least one (1) of said appointive members shall be a registered nurse. All appointive members shall be eligible for reappointment.

(2) At the expiration of each of the terms of office of said eight (8) appointive members, the successor to each member shall be appointed by said county judge/executive and said mayor for a term of office of four (4) years and until his successor is appointed and qualified.

(3) The two (2) appointments which increase the appointed members from six (6) to eight (8) shall both occur on July 1, 1974, one (1) of which shall be for a term expiring on June 30, 1978, the other of which shall be for a term expiring on June 30, 1975. Each subsequent appointment to the board shall be for a term of four (4) years.

(4) Notwithstanding subsection (2) of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the terms of the members on the board shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, the mayor, and county judge/executive with the approval of the fiscal court, shall adjust the terms of the sitting members so that the terms of two (2) each of their appointments expire in one (1) year, the term of one (1) each of their appointments expire in two (2) years and the term of one (1) each of their appointments expire in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years.

Section 4. KRS 212.632 is amended to read as follows:

(1) The board shall be composed of nine (9) members, one (1) of whom shall be an ex officio member and the mayor of the urban-county government, one (1) of whom shall be an ex officio member and a member of the urban-county government legislative body and appointed by the mayor, and seven (7) of whom shall be appointed by the mayor with the approval of the urban-county government legislative body. Of the seven (7) appointed members, three (3) shall be licensed and practicing physicians, one (1) a licensed and practicing dentist, one (1) a licensed and practicing registered nurse, ***one (1) licensed pharmacist,*** and ***one (1) member***[~~two (2) members~~] at large. Appointment of the physician, dentist***, pharmacist,*** and nurse shall be made from a list of three (3) nominees submitted by any of the respective county professional societies for which a vacancy exists. All appointed members shall reside in the county of the board to which they are appointed and shall be eligible for reappointment.

(2) Of the original appointments to fill the seven (7) appointed positions on the board, the mayor shall, within thirty (30) days from July 1, 1977, appoint three (3) members for a term expiring June 30, 1978, and four (4) members for a term expiring June 30, 1979. All seven (7) original appointees shall be appointive members serving on the city-county board of health on July 1, 1977.

(3) At the expiration of the terms of office of the seven (7) original appointees, the successor to each such member shall be appointed in the manner prescribed under the provisions of subsection (1) of this section for a term of office of two (2) years and until his successor is appointed and qualified.

(4) All vacancies occurring on the board by reason of death, resignation, disqualification, removal or otherwise, shall be filled for the unexpired term in the manner prescribed under the provisions of subsection (1) of this section.

Section 5. KRS 212.640 is amended to read as follows:

In any county containing a city of the second class the fiscal court of the county and the legislative body of the city of the second class, may by joint action, establish a city-county health department. The department when established shall be governed by a city-county board of health composed of ***twelve (12)***[~~eleven (11)~~] members, one (1) of whom shall be either the mayor, city manager or the designee of the city manager of the city, whichever is appointed by the city legislative body, one (1) of whom shall be the county judge/executive, one (1) of whom shall be a dentist, one (1) of whom shall be a registered nurse, and three (3) of whom shall be physicians, one (1) of whom shall be a veterinarian, one (1) of whom shall be an engineer engaged in the practice of civil or sanitary engineering, one (1) of whom shall be an optometrist, ***one (1) licensed pharmacist,*** and one (1) lay person knowledgeable in consumer affairs residing in each county and appointed in the same manner as county board of health members and to hold office as provided in KRS 212.020.

Section 6. KRS 212.786 is amended to read as follows:

(1) The independent district board of health shall be comprised of the following members: the judge/executive or his designee as an ex officio member from each participating county, the chairman from each participating local board of health as an ex officio member, additional members appointed by the judge/executive with the approval of the local board of health including, at least to the extent practicable, twenty-five percent (25%) who shall be licensed physicians, ten percent (10%) who shall be licensed dentists, twenty-five percent (25%) who shall be licensed registered nurses, ten percent (10%) who shall be licensed veterinarians, ***ten percent (10%) who shall be pharmacists,*** and ***twenty percent (20%)***[~~thirty percent (30%)~~] who shall be consumer members. Each member shall serve a term of two (2) years with a maximum of three (3) consecutive terms, except ex officio members who shall continue to serve.

(2) The judge/executive, or his designee and the chairman of the local board of health shall serve as ex officio members of the district board of health. Additional appointments shall be based on population. Each county shall have an appointment of one (1) member for fifteen thousand (15,000) population or portion thereof. Additional members shall be at a rate of one (1) member per whole increment of fifteen thousand (15,000) population. The mayor of each city of the second class, or his designee, shall serve as an ex officio member of the district board of health and shall count against the population-based appointees.

(3) The original appointments by the judge/executive to the board shall be made within thirty (30) days of July 13, 1990. One-half (1/2), or the nearest portion thereof, shall be appointed for a term to expire June 30, 1991 and one-half (1/2), or the nearest portion thereof, shall be appointed for a term to expire June 30, 1992. All subsequent appointments and successors shall be appointed in accordance with the provisions of this section.

(4) The judge/executive shall fill all vacancies occurring by reason of death, resignation, or disqualification and do so for the unexpired term.

Section 7. KRS 212.855 is amended to read as follows:

(1) Except for district health departments which serve a county containing a city of the first class, an urban-county government, or which are part of an interstate metropolitan statistical area where the Kentucky population of the metropolitan statistical area exceeded two hundred fifty thousand (250,000) people on July 1, 1989, a district board of health shall consist of the following members:

  (a) The county judge/executive or his designee from each county in the district as an ex officio voting member; and

  (b) One (1) additional resident member per county per fifteen thousand (15,000) population or fraction thereof, which shall include the mayor, city manager, or the designee of the city manager of each city of the second class as an ex officio voting member, except that the total number of members from any county in a district shall not exceed seven (7) members.

(2) All members except for the county judges/executive and the mayors of second class cities shall be appointed by the county or city-county boards of health from the membership of each county or city-county board of health.

  (a) The secretary of the Cabinet for Health Services shall notify the chairman of each county or city-county board of health in the district of the name of each member from that county whose term is expiring.

  (b) Upon receipt of the notification, under subsection (a) of this section, each county or city-county board of health shall appoint one (1) of its members to fill each vacant position from that county. At least twenty-five percent (25%) or the nearest whole number to twenty-five percent (25%) of the appointed members of the district board shall be doctors of medicine or osteopathy qualified, licensed, and practicing in the Commonwealth, and there shall be at least one (1) qualified, licensed, and practicing registered nurse, one (1) qualified, licensed, and practicing dentist, ***one (1) licensed pharmacist,*** one (1) qualified licensed engineer engaged in the practice of civil or sanitary engineering, one (1) qualified, licensed, and practicing optometrist, and one (1) qualified, licensed, and practicing veterinarian, when available, among the membership of the board. The remaining members of the district board shall be concerned community leaders residing within the county from which they are to be representatives.

(c) The chairman of the county or city-county board of health shall inform the secretary within forty-five (45) days of receipt of this notification of the names of the county or city-county board of health members appointed to serve on the district board. Appointed members of district boards of health shall not begin to serve on a district board of health until the time the secretary has certified their eligibility to serve on the board.

(3) If a vacancy exists upon the district board, the vacancy shall be filled in a manner consistent with subsection (2) of this section, with the appointed member to fill the vacant seat coming from the county in which the vacancy occurs and the appointed member resides. If the term of a member on the county board of health expires or the member cannot complete the term on the county board, the seat on the district board of health shall be declared vacant and the county or city-county board of health shall appoint another of its members to fill any unexpired portion of the term on the district board.

(4) The appointed members of the district board of health shall hold office for a term of two (2) years ending on December 31 or until their successors are appointed. The terms of the first appointments shall be staggered so that members whose terms expire on June 30, 1992, shall be replaced with appointed members whose terms expire on December 31, 1994. Members whose terms expire on June 30, 1993, shall be replaced with appointed members whose terms expire on December 31, 1995.

(5) The secretary shall remove any appointed member who fails to attend three (3) consecutive scheduled meetings.

Section 8. KRS 314.011 is amended to read as follows:

As used in KRS 314.011 to 314.161 and KRS 314.991, unless the context thereof requires otherwise:

(1) "Board" means Kentucky Board of Nursing;

(2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A;

(3) "Nurse" means a person licensed under the provisions of this chapter as a registered nurse or as a licensed practical nurse;

(4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:

(a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and

(b) Planning, implementation, and evaluation based on nationally accepted standards of nursing practice;

(5) "Registered nurse" means one who is licensed under the provisions of this chapter to engage in registered nursing practice;

(6) "Registered nursing practice" means the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:

(a) The care, counsel, and health teaching of the ill, injured, or infirm;

(b) The maintenance of health or prevention of illness of others;

(c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses. Components of medication administration include, but are not limited to:

1. Preparing and giving medications in the prescribed dosage, route, and frequency***, including dispensing medications only as defined in paragraph (b) of subsection (17) of this section***;
2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;
3. Intervening when emergency care is required as a result of drug therapy;
4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;
5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and
6. Instructing an individual regarding medications;

(d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care; and

(e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses;

(7) "Advanced registered nurse practitioner" means one who is registered and designated to engage in advanced registered nursing practice including the nurse anesthetist, nurse midwife, clinical nurse specialist, and nurse practitioner pursuant to KRS 314.042;

(8) "Advanced registered nursing practice" means the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized postbasic program of study and clinical experience and who are certified by the American Nurses' Association or other nationally established organizations or agencies recognized by the board to certify registered nurses for advanced nursing practice. The additional acts shall, subject to approval of the board, include, but not be limited to, prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced registered nurse practitioners who engage in these additional acts shall be authorized to issue prescriptions for and dispense nonscheduled legend drugs as defined in KRS 217.905, under the conditions set forth in KRS 314.042. Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation;

(9) "Licensed practical nurse" means one who is licensed under the provisions of this chapter to engage in licensed practical nursing practice;

(10) "Licensed practical nursing practice" means the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:

(a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, a licensed physician, or dentist;

(b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board;

(c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;

(d) Teaching, supervising, and delegating except as limited by the board; and

(e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;

(11) "School of nursing" means a nursing education program preparing persons for licensure as a registered nurse or a practical nurse;

(12) "Continuing education" means offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge;

(13) "Nursing assistance" means the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse;

(14) "Sexual assault nurse examiner" means a registered nurse who has completed the required education and clinical experience and been credentialed by the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the State Medical Examiner pursuant to KRS 216B.400(4);

(15) "Competency" means the application of knowledge and skills in the utilization of critical thinking, effective communication, interventions, and caring behaviors consistent with the nurse's practice role within the context of the public's health, safety, and welfare;

(16) "Credential" means a current license, registration, or certificate that is issued by the board and that permits the practice of nursing;

(17) "Dispense" means***:***

(a) To receive and distribute noncontrolled legend drug samples from pharmaceutical manufacturers to patients at no charge to the patient or any other party***; or***

(b) To distribute noncontrolled legend drugs from a local, district, and independent health department, subject to the direction of the appropriate governing board of the individual health department;

(18) "Dialysis care" means a process by which dissolved substances are removed from a patient's body by diffusion, osmosis, and convection from one (1) fluid compartment to another across a semipermeable membrane; and

(19) "Dialysis technician" means a person who is not a nurse, a physician assistant, or a physician and who provides dialysis care in a licensed renal dialysis facility under the direct, on-site supervision of a registered nurse or a physician.

Representative Colter moved that the House concur in the Senate Committee Substitute to **HB 67**. Agreed.

On the roll call the vote was: **Yeas 92, Nays 4**. (See March 21, 2002, Message received on roll call on **HB 67** - Appendix)

Representative Colter moved that **HB 67**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 5**.(See March 21, 2002, Message received on roll call on **HB 67** - Appendix)

HB 67, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Colter moved that the vote by which **HB 67**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 470, with Senate Committee Substitute and Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non concurrence in Senate Amendments. Agreed.

The Senate Committee Substitute to **HB 470** is as follows:

HB 470, AN ACT relating to functions of the Kentucky Department of Agriculture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 246.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the state Board of Agriculture;

(2) "Commissioner" means the Commissioner of Agriculture;

(3) "Department" means the Department of Agriculture;

(4)[~~ "Owner" means any individual, firm, partnership, corporation, organization, association, or any combination thereof who owns a business for the purpose of applying paint to structures of any nature by means of spray equipment of any kind;~~

~~(5)~~] "Structure" means a building erected as a shelter for human beings, animals or agricultural products, equipment, or supplies;

(5)[~~(6)~~] "Agriculture" means the business of raising or producing:

(a) Crops, the products of which are used for food, feed, fiber, energy, or pharmaceuticals;
(b) Horticulture products;
(c) Tobacco;
(d) Aquaculture products;
(e) Livestock, poultry, and ratite birds and eggs;
(f) Milk and milk products;
(g) Eggs and egg products;
(h) Bees and bee products; and
(i) Timber;

(6)[~~(7)~~] "Horticulture" means the business of raising fruits, nuts, vegetables, flowers, ornamental plants, shrubs, trees, herbs, and the starts or transplants needed to produce these items;

(7)[~~(8)~~] "Aquaculture" means the science, art, and business of producing and raising aquatic organisms under controlled or semicontrolled conditions;

(8)[~~(9)~~] "Livestock" means cattle, sheep, swine, goats, horses, llamas, buffaloes, or any other animals of the bovine, ovine, porcine, caprine, or equine species***, as well as deer or elk that are privately owned and raised in a confined area for breeding stock, food, fiber, and other products***; and

(9)[~~(10)~~] "Poultry" means chickens, ducks, turkeys, or other domestic fowl being raised or kept on any premises in the Commonwealth for profit.

Section 2. KRS 246.040 is amended to read as follows:

(1) The Commissioner shall be the head of the department. He shall keep his office at the seat of government and devote his entire time to the duties of his office.

(2) The Commissioner may employ necessary ***personnel to assist in carrying out his duties***[~~clerical help~~].

Section 3. KRS 246.070 is amended to read as follows:

(1) The Commissioner shall promote and encourage, as far as practicable, the organization of agricultural ***organizations and associations***[~~and horticultural societies and other associations and ascertain the agricultural, horticultural, mechanical,~~

~~commercial and educational condition of every county~~]. He shall ascertain in detail the quality and quantity of land under cultivation; the kinds, amounts and value of the annual field crops; the annual production of orchards, gardens, ***and*** dairies[~~ and mines; the quantity and value of domestic manufactures~~]; the kinds, value***,*** and increase of livestock;[~~ the annual products of mechanical industry and skill;~~] the character and wages of labor employed in[~~ mines, factories and~~] the cultivation of the soil; ***and*** the value of ***agricultural*** exports and imports[~~; the number of miles and names of railroads, navigable streams and post offices in each county; how and by whom public roads are operated and kept in repair; the name, location and population of cities and villages; the number and value of school houses and churches; the names, capital and purposes of charitable institutions, and such other vital, social, physical and political statistics as he may deem proper and expedient~~].

(2) The Commissioner may, if he thinks it will promote the objects of the department, expend such sums as are available in [~~:~~

~~(a)~~]the payment of premiums that he offers to encourage the agricultural industry of the state[~~;~~

~~(b) The distribution of seeds that the United States government desires to introduce into this state;~~

~~(c) The purchase, importation and exchange of any seeds that he deems of value to the agricultural interests of the state; and~~

~~(d) The analyzation of soils in different parts of the state in the interest of agriculture~~].

Section 4. KRS 246.080 is amended to read as follows:

All officers of the state and counties shall furnish the Commissioner with such information within their power as he may require in regard to the matters connected with the department. ***The Commissioner***[~~He~~] shall also put himself in communication with the different agricultural ***associations and organizations***[~~, horticultural and labor societies, manufacturing and mining companies~~] and such other organizations or persons in or out of the state, as he may deem proper, in order to secure information.

Section 5. KRS 246.130 is amended to read as follows:

The board shall meet in Frankfort at least once every two (2) months, or at any other place it may determine, to consider the general agricultural, horticultural, ***and*** forestry[~~, and industrial~~] interests of the state, and to take the necessary steps for carrying out the purpose of the board. The Commissioner may, and at the request of six (6) of its voting members shall, call its meetings and the board may adjourn any meeting to a time and place as may be determined. Six (6) voting members shall constitute a quorum. Six (6) members may call the board together for the transaction of business if the Commissioner, upon their request, refuses to do so.

Section 6. KRS 246.160 is amended to read as follows:

The board shall act as an advisory board to the Commissioner[~~, and shall aid him in the distribution of seed, in the collection of information concerning crops and in the promulgation of industrial information generally~~].

Section 7. KRS 246.210 is amended to read as follows:

(1) The department or its agents ***or employees*** shall have free access within reasonable hours to any farm, orchard, garden, elevator, warehouse, building, cellar, freight or express office or car, freight yard, vehicle, vessel, boat, container, or any other place which, for probable cause, it may be necessary or desirable for the agents to enter in order to enforce a quarantine against the European corn borer (Pyrausta nubilaslis).

(2) The ***department or any of its agents or employees***[~~board or any of its members or representatives~~] may after reasonable notice enter any premises for the purpose of inspecting or testing livestock to determine the existence of, or to combat in any way, communicable diseases. The owner of the livestock to be tested or inspected shall, after reasonable notice, confine and present the livestock to the ***agents or employees of the department***[~~representatives of the board~~]. When the ***department or any of its agents or employees***[~~board or any of its representatives~~] determines through inspection or testing that any livestock is infected with a communicable disease, they may enter any premises after reasonable notice and remove the diseased livestock, and have the livestock destroyed or slaughtered and the owner indemnified as provided in KRS 257.120 to 257.150. When necessary the ***department or any of its agents or employees***[~~board or any of its members or representatives~~] may call upon peace officers for assistance.[~~ The officers shall render assistance when ordered to do so by the board or any of its members, representatives, agents, or employees.~~]

(3)[~~ A sealer of agricultural warehouses appointed under KRS 251.120 may at all times enter upon any premises to inspect grain in storage or the granary, crib, bin, or other receptacle in which it has been stored.~~

~~(4)~~] The state entomologist or his authorized agent shall, upon previous application, have free access within reasonable hours to any premises or containers for purposes of trapping, inspecting for, investigating, or treating the premises for the control of Japanese beetles (Popillia japonica).[~~ In the capacity of state inspector of apiaries, He may, personally or by deputy, at his discretion, visit private premises during reasonable business hours and inspect any apiary to ascertain the existence of, or to treat or destroy any disease in the egg, larval, pupal, or adult stages among bees or brood.~~]

(4)[~~(5)~~] The director of the agricultural experiment station and his agents shall have free access at all reasonable hours to any premises, vehicle, elevator, or steamship company, in the discharge of his duties under KRS 250.081.

Section 8. KRS 246.220 is amended to read as follows:

(1) No person shall in any way hinder, refuse or defeat entrance or inspection by an agent ***or employee*** of the department who is performing the duties of his office for the purpose of combating the European corn borer under subsection (1) of KRS

246.210.

(2) No person shall interfere in any way with the ***department or any of its agents or employees***~~[board or any of its members or representatives]~~ in the inspection of premises and livestock, or in the testing of livestock on any premises when the object of the inspection or testing is to determine the existence of or to combat in any way, communicable disease in livestock. No person shall interfere in any way with the ***department or any of its agents or employees***~~[board or any of its members or representatives]~~ in the removal from any premises of livestock found to be infected with a communicable disease.

(3) No person shall hinder the efforts of the state entomologist or his agents in combating Japanese beetles under KRS 246.210.

(4) No person shall hinder the entomologist in the performance of any of his duties~~[as state inspector of apiaries]~~.

(5) No person shall interfere in any way with inspectors or assistants while they are discharging their duties under KRS 250.021 to 250.111.

(6) No person shall hinder, prevent, or attempt to prevent any person from discharging his duties under KRS 250.491 to 250.631.

(7) No person shall in any way impersonate, hinder, or obstruct the department or its inspectors in the performance of their official duties under KRS 248.280 to 248.440 or 261.220.

Section 9. KRS 246.990 is amended to read as follows:

(1) Any person who violates subsection (2) of KRS 246.210 or subsection (2) of KRS 246.220 shall be fined not less than fifty dollars ($50) nor more than two hundred dollars ($200) for the first offense; he shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) and be confined in the county jail for not less than sixty (60) days nor more than one hundred and twenty (120) days, for each subsequent offense.

(2) Any person who violates subsection (3) of KRS 246.220 shall be fined not less than five dollars ($5) nor more than one hundred dollars ($100) or be imprisoned for not more than ten (10) days, or both. Each day's hindering or refusal of access shall constitute a separate offense.

(3) Any person who violates subsection (4) of KRS 246.220 shall be fined not less than two dollars ($2) nor more than fifty dollars ($50).

(4) Any person who violates subsection (5) of KRS 246.220 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(5) Any person who violates subsection (6) of KRS 246.220 shall be fined not less than ten dollars ($10) nor more than fifty dollars ($50).

(6) Any person who violates subsection (7) of KRS 246.220 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not more than three (3) months, or both.

(7) Any owner or operator of a dairy plant who shall fail to comply with the provisions of KRS 246.240 or any part thereof shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than one hundred dollars ($100).

(8)~~[Any person violating any of the provisions of KRS 246.510 to 246.590 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), and imprisoned not more than one (1) year, or both. Each violation shall be deemed a separate offense.~~

~~(9)]~~ Any person who violates any administrative regulation promulgated by the department under the provisions of KRS 246.660 shall have a civil fine imposed of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

Section 10. The following KRS sections are repealed:

246.050	Department may engage in field demonstration and educational work.
246.090	Commissioner to issue monthly reports -- Publication.
246.100	Annual report on state, to induce immigration.
246.110	Report to General Assembly.
246.170	Board to report to General Assembly.
246.510	License required.
246.520	Rules and regulations.
246.530	Power of departmental agents.
246.540	Grounds for suspension or revocation of licenses.

246.550 Hearing.
246.560 Notice of revocation, suspension, or refusal to issue license -- Appeal -- Bond.
246.570 Change in ownership -- Duty of new owner.
246.580 Exceptions to license requirement.
246.590 Disposition of fees.

Representative A. Arnold moved that the House concur in the Senate Committee Substitute to **HB 470**. Agreed.

The Senate Floor Amendment No. 4 to the Senate Committee Substitute to **HB 470** is as follows:

On page 1, between the enacting clause and line 1, by inserting the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

(1) The Department of Agriculture in cooperation with the Department of Fish and Wildlife shall promulgate administrative regulations pertaining to health requirements, eradication of diseases, and identification of privately owned and farm raised cervids maintained for the production of meat and other products. The Department of Fish and Wildlife in cooperation with the Department of Agriculture shall promulgate administrative regulations pertaining to the importation and holding of cervids.

(2) If any person imports a diseased animal into the Commonwealth in violation of the statutes and administrative regulations, then that person shall be responsible to the Department of Agriculture and the Department of Fish and Wildlife for all costs incurred in the investigation, response, and eradication of that disease.

SECTION 2. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

(1) The Department of Agriculture in cooperation with the Department of Fish and Wildlife shall promulgate administrative regulations pertaining to health requirements, eradication of diseases, and identification of privately owned and farm raised cervids maintained for the production of meat and other products. The Department of Fish and Wildlife in cooperation with the Department of Agriculture shall promulgate administrative regulations pertaining to the importation and holding of cervids.

(2) If any person imports a diseased animal into the Commonwealth in violation of the statutes and administrative regulations, then that person shall be responsible to the Department of Agriculture and the Department of Fish and Wildlife for all costs incurred in the investigation, response, and eradication of that disease."

and by renumbering all subsequent sections accordingly; and

On page 2, line 3, after "species" by deleting "*, as well*"; and

On page 2, by deleting line 4 in its entirety; and

On page 2, line 5, by deleting "*stock, food, fiber, and other products*" and inserting in lieu thereof "*deer and elk, whose regulatory requirements are under KRS Chapters 150 and 246, that are privately owned and raised in a confined area for breeding stock, food, fiber, and other products*"; and

On page 7, between lines 13 and 14 by inserting the following:

"Section 11. KRS 257.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Board of Agriculture;

(2) "Commissioner" means the Commissioner of Agriculture;

(3) "Communicable disease" includes hog cholera, brucellosis, leptospirosis, anthrax, black leg, catarrhal influenza of cattle, contagious pleuro-pneumonia, foot and mouth disease or aphthous fever, glanders, hemorrhagic septicemia, maladie du coit or dourine, mange of cattle, necrobacillosis and foot rot in sheep, hydrophobia, rinderpest, scabies in cattle, Texas tick or southern cattle fever, tuberculosis, equine viral arteritis, or any other disease proclaimed by the board to be of a transmissible character;

(4) "Compost" means the humus-like product of the process of composting domestic livestock, poultry, or fish, which may be used as a soil conditioner or enhancer;

(5) "Composting" means the biological decomposition of organic matter which inhibits pathogens;

(6) "Experiment station" means the agricultural experiment station;

(7) "Fish" means the bodies and parts of bodies of all animal aquatic life being raised, or kept for sale to a wholesaler or retailer, or for direct sale to the public;

(8) "Livestock" means cattle, sheep, swine, *deer and elk, whose regulatory requirements are under KRS Chapters 150 and 246, that are privately owned and raised in a confined area for breeding stock, food, fiber, and other products,* goats, horses, or any other animals of the bovine, ovine, porcine, caprine, or equine species;

(9) "Owner" means any person owning or leasing from another, or having in charge any domestic animal;

(10) "Poultry" means all chickens, ducks, turkeys, or other domestic fowl being raised or kept on any premises in the Commonwealth for profit; and

(11) "Premises" means any portion of land, or any structure erected on land, and any vehicle or vessel used in the transportation of passengers, goods or animals." and

by renumbering all subsequent sections accordingly; and

On page 8, after line 1, by inserting the following:

"Section 13. Whereas the incidence of chronic wasting disease (CWD) is increasing and eight (8) states currently have cervid populations affected by the disease; and whereas agencies in the Commonwealth charged with the duty of protecting the health of the livestock and wildlife in the Commonwealth must coordinate with each other and with agencies from other states for the importation of cervids, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.".

Representative A. Arnold moved that the House concur in the Senate Floor Amendment No. 4 to the Senate Committee Substitute to **HB 470**. Agreed.

Representative A. Arnold moved that **HB 470**, by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 21, 2002, roll call on **HB 470** - Appendix.)

HB 470, by way of Committee Substitute as amended by the Senate, was passed.

The Senate Floor Amendment No. 6 Title to **HB 470** is as follows:

On page 1, by amending the title to read "AN ACT relating to farm operations and declaring an emergency.".

Representative A. Arnold moved the adoption of Senate Floor Amendment No. 6 Title to **HB 470**. Agreed.

Representative A. Arnold moved that the vote by which **HB 470**, by way of Senate Committee Substitute, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 393 with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non concurrence in Senate Amendment. Agreed.

The Senate Committee Substitute to **HB 393**, is as follows:

HB 393, AN ACT relating to children's advocacy centers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 620.020 is amended to read as follows:

The definitions in KRS Chapter 600 shall apply to this chapter. In addition, as used in this chapter, unless the context requires otherwise:

(1) "Case permanency plan" means a document identifying decisions made by the cabinet, for both the biological family and the child, concerning action which needs to be taken to assure that the child in foster care expeditiously obtains a permanent home;

(2) "Case progress report" means a written record of goals that have been achieved in the case of a child;

(3) "Case record" means a cabinet file of specific documents and a running record of activities pertaining to the child;

(4) "Children's advocacy center" means an agency that advocates on behalf of children alleged to have been abused; that assists in the coordination of the investigation of child abuse by providing a location for forensic interviews ***and medical examinations,*** and ***by*** promoting the coordination of services for children alleged to have been abused; and that provides***,*** ***directly or by formalized agreements,*** services that include, but are not limited to, forensic ***interviews,*** medical examinations, mental health and related support services, court advocacy, consultation, training, and staffing of multidisciplinary teams;

(5) "Foster care" means the provision of temporary twenty-four (24) hour care for a child for a planned period of time when the child is:

  (a) Removed from his parents or person exercising custodial control or supervision and subsequently placed in the custody of the cabinet; and

  (b) Placed in a foster home or private child-caring facility or child-placing agency but remains under the supervision of the cabinet;

(6) "Local citizen foster care review board" means a citizen board which provides periodic permanency reviews of children

placed in the custody of the cabinet by a court order of temporary custody or commitment under this chapter;

(7) "Multidisciplinary teams" means local teams operating under protocols governing roles, responsibilities, and procedures developed by the Kentucky Multidisciplinary Commission on Child Sexual Abuse pursuant to KRS 431.600;

(8) "Permanence" means a relationship between a child and an adult which is intended to last a lifetime, providing commitment and continuity in the child's relationships and a sense of belonging;

(9) "Preventive services" means those services which are designed to help maintain and strengthen the family unit by preventing or eliminating the need for removal of children from the family;

(10) "Reasonable efforts" means the exercise of ordinary diligence and care by the department to utilize all preventive and reunification services available to the community in accordance with the state plan for Public Law 96-272 which are necessary to enable the child to safely live at home;

(11) "Reunification services" means remedial and preventive services which are designed to strengthen the family unit, to secure reunification of the family and child where appropriate, as quickly as practicable, and to prevent the future removal of the child from the family; and

(12) "State citizen foster care review board" means a board created by KRS 620.310.

Section 2. KRS 620.050 is amended to read as follows:

(1) Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action. However, any person who knowingly makes a false report and does so with malice shall be guilty of a Class A misdemeanor.

(2) ***Any employee or designated agent of a children's advocacy center shall be immune from any civil liability arising from performance within the scope of the person's duties as provided in KRS 620.030 to 620.050. Any such person shall have the same immunity with respect to participation in any judicial proceeding. Nothing in this subsection shall limit liability for negligence. Upon the request of an employee or designated agent of a children's advocacy center, the Attorney General shall provide for the defense of any civil action brought against the employee or designated agent as provided under KRS 12.211 to 12.215.***

(3) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.

(4)[~~(3)~~] Upon receipt of a report of an abused, neglected, or dependent child pursuant to this chapter, the cabinet as the designated agency or its delegated representative shall initiate a prompt investigation or assessment of family needs, take necessary action, and shall offer protective services toward safeguarding the welfare of the child. The cabinet shall work toward preventing further dependency, neglect, or abuse of the child or any other child under the same care, and preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.

(5)[~~(4)~~] The report of suspected child abuse, neglect, or dependency and all information obtained by the cabinet or its delegated representative, as a result of an investigation or assessment made pursuant to this chapter, ***except for those records provided for in subsection (6) of this section,*** shall not be divulged to anyone except:

(a) Persons suspected of causing dependency, neglect, or abuse;

(b) The custodial parent or legal guardian of the child alleged to be dependent, neglected, or abused;

(c) Persons within the cabinet with a legitimate interest or responsibility related to the case;

(d) Other medical, psychological, educational, or social service agencies, child care administrators, corrections personnel, or law enforcement agencies, including the county attorney's office, the coroner, and the local child fatality response team, that have a legitimate interest in the case;

(e) A noncustodial parent when the dependency, neglect, or abuse is substantiated;

(f) Members of multidisciplinary teams as defined by KRS 620.020 and which operate pursuant to KRS 431.600[~~. Members may include staff from a children's advocacy center~~];[~~ or~~]

(g) ***Employees or designated agents of a children's advocacy center; or***

(h) Those persons so authorized by court order.

(6) (a) Files, reports, notes, photographs, records, electronic and other communications, and working papers used or developed by a children's advocacy center in providing services under this chapter are confidential and shall not be disclosed except to the following persons:

1. Staff employed by the cabinet, law enforcement officers, and Commonwealth's and county attorneys who are directly involved in the investigation or prosecution of the case;

2. Medical and mental health professionals listed by name in a release of information signed by the

guardian of the child, provided that the information shared is limited to that necessary to promote the physical or psychological health of the child or to treat the child for abuse-related symptoms; and

3. The court and those persons so authorized by a court order.

(b) The provisions of this subsection shall not be construed as to contravene the Rules of Criminal Procedure relating to discovery.

(7) Nothing in this section shall prohibit a parent or guardian from accessing records for his or her child providing that the parent or guardian is not currently under investigation by a law enforcement agency or the cabinet relating to the abuse of a child.

(8) Nothing in this section shall prohibit employees or designated agents of a children's advocacy center from disclosing information during a multidisciplinary team review of a child sexual abuse case as set forth under KRS 620.040. Persons receiving this information shall sign a confidentiality statement consistent with statutory prohibitions on disclosure of this information.

(9) Employees or designated agents of a children's advocacy center may confirm to another children's advocacy center that a child has been seen for services. If an information release has been signed by the guardian of the child, a children's advocacy center may disclose relevant information to another children's advocacy center.

(10) (a) An interview of a child recorded at a children's advocacy center shall not be duplicated except that the Commonwealth's or county attorney prosecuting the case may:

1. Make and retain one (1) copy of the interview; and

2. Make one (1) copy for the defendant's counsel that the defendant's counsel shall not duplicate.

(b) The defendant's counsel shall file the copy with the court clerk at the close of the case.

(c) Unless objected to by the victim or victims, the court, on its own motion, or on motion of the attorney for the Commonwealth shall order all recorded interviews that are introduced into evidence or are in the possession of the children's advocacy center, law enforcement, the prosecution, or the court to be sealed.

(d) The provisions of this subsection shall not be construed as to contravene the Rules of Criminal Procedure relating to discovery.

(11)[~~(5)~~] Identifying information concerning the individual initiating the report under KRS 620.030 shall not be disclosed except:

(a) To law enforcement officials that have a legitimate interest in the case;

(b) To the agency designated by the cabinet to investigate or assess the report;

(c) To members of multidisciplinary teams as defined by KRS 620.020 that operated under KRS 431.600; or

(d) Under a court order, after the court has conducted an in camera review of the record of the state related to the report and has found reasonable cause to believe that the reporter knowingly made a false report.

(12)[~~(6)~~] Information may be publicly disclosed by the cabinet in a case where child abuse or neglect has resulted in a child fatality or near fatality.

(13)[~~(7)~~] When an adult who is the subject of information made confidential by subsection *(5)*[~~(4)~~] of this section publicly reveals or causes to be revealed any significant part of the confidential matter or information, the confidentiality afforded by subsection *(5)*[~~(4)~~] of this section is presumed voluntarily waived, and confidential information and records about the person making or causing the public disclosure, not already disclosed but related to the information made public, may be disclosed if disclosure is in the best interest of the child or is necessary for the administration of the cabinet's duties under this chapter.

(14)[~~(8)~~] As a result of any report of suspected child abuse or neglect, photographs and X-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person exercising custodial control or supervision of the child, as a part of the medical evaluation or investigation of these reports. These photographs and X-rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings. The person performing the diagnostic procedures or taking photographs or X-rays shall be immune from criminal or civil liability for having performed the act. Nothing herein shall limit liability for negligence.

Section 3. KRS 610.127 is amended to read as follows:

Reasonable efforts as defined in KRS 620.020[~~(9)~~] shall not be required to be made with respect to a parent of a child if a court of competent jurisdiction determines that the parent has:

(1) Subjected the child to aggravated circumstances as defined in KRS 600.020;

(2) Been convicted in a criminal proceeding of having caused or contributed to the death of another child of the parent;

(3) Committed a felony assault that resulted in serious bodily injury to the child or to another child of the parent;

(4) Had their parental rights to another child terminated involuntarily;

(5) Engaged in a pattern of conduct due to alcohol or other drug abuse as defined in KRS 222.005(12) for a period of not less than ninety (90) days that has rendered the parent incapable of caring for the immediate and ongoing needs of the child,

and the parent has refused or failed to complete available treatment for alcohol or other drug abuse;

(6) Mental illness as defined in KRS 202A.011(9) or mental retardation as defined in KRS 202B.010(9) or other developmental disability as defined in KRS 387.510(7) that places the child at substantial risk of physical or emotional injury even if the most appropriate and available services were provided to the parent for twelve (12) months; or

(7) Other circumstances in existence that make continuation or implementation of reasonable efforts to preserve or reunify the family inconsistent with the best interests of the child and with the permanency plan for the child.

Representative Vincent moved that the House concur in the Senate Committee Substitute to **HB 393**. Agreed

Representative Vincent moved that **HB 393**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 21, 2002, Message received on roll call on **HB 393** - Appendix)

HB 393, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Vincent moved that the vote by which **HB 393**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the following Bill be recommitted:

Appropriations and Revenue: **HB 568**

Representative Stumbo moved that the rules be suspended for the Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HR 253, by Representative Comer: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Carrie Ann Beams and Aaron Joseph Beams, loving sister and brother.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Seniors, Military Affairs and Public Safety: **SB 223, HR 32, SJR 1**

Banking and Insurance: **SJR 153**

State Government: **SB 271, SB 156, SB 292**

Report of Committees (Continued)

The Committee on Elections, Constitutional Amendments and Intergovernmental Affairs reported **HB 733**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 733, AN ACT proposing an amendment to the Constitution of Kentucky relating to powers of the General Assembly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. IT IS PROPOSED THAT A NEW SECTION BE ADDED TO THE CONSTITUTION OF KENTUCKY TO READ AND BE NUMBERED AS FOLLOWS:

Section 36a. The General Assembly may establish certain oversight committees, the powers and duties of which shall be prescribed by law, including but not limited to the right to approve, reject, or amend contracts, bond proposals, or other agreements to which the Commonwealth is a party. Any committees established pursuant to this section may take action whether or not the General Assembly is in session.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

The Committee Substitute to **HB 733** is as follows:

HB 733, AN ACT proposing an amendment to the Constitution of Kentucky relating to powers of the General Assembly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. IT IS PROPOSED THAT A NEW SECTION BE ADDED TO THE CONSTITUTION OF KENTUCKY TO READ AND BE NUMBERED AS FOLLOWS:

Section 36a. The General Assembly may, through its administrative regulations review process and procedures, find an administrative regulation deficient. If the review process and procedures of the General Assembly find an administrative regulation deficient, then the regulation shall not become effective until fifteen days after the adjournment of the next regular legislative session, unless the General Assembly acts in the next regular session after the finding of a deficiency.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

Motions, Petitions, and Communications (Continued)

Representative Hoover moved the adoption of the following **HR 251**:

HR 251, A RESOLUTION adjourning the House of Representatives in honor of Clear Fork Baptist Church upon the occasion of her two hundredth anniversary on April 1, 2002.

WHEREAS, on April 1, 1802, Isaac Denton and twelve other devout Christians constituted "The Baptist Church of Jesus Christ," later to be renamed "Clear Fork Baptist Church" on Clear Fork Creek in Cumberland County, which is now Clinton County, Kentucky; her first pastor was Isaac Denton, a native North Carolinian, and he faithfully served as pastor for more than forty-five years, and upon his death in January, 1848, he had witnessed 572 people become members of Clear Fork Baptist Church; and

WHEREAS, at the time of the inception of Clear Fork Baptist Church in 1802, there were only sixteen states in the Union, the Democratic Party was one year old and the Republican Party would be formed fifty-two years later, Thomas Jefferson had just finished his first year in office as President of the United States, Daniel Boone was sixty-one years of age, Andrew Jackson was thirty-five years of age, and Martha Washington died that year; and

WHEREAS, during the first years of the church, services were conducted in private homes or other buildings until August, 1808, when church members agreed to build a meeting house, most likely a log building, and this first building was used until 1861; although there are no records, it is believed that the building was burned during the Civil War, and in 1869, a new building was erected with two later additions built and used until 1995, when it was torn down for the present building; and

WHEREAS, although the exact date of the first operation of Clear Fork School is unknown, one acre of land was set aside in 1806 for building a secular school, and church records show that the church used this building as a meeting place in their first meeting after the Civil War, and Clear Fork Baptist Church is proud to have given Clinton County her first church, as well as her first school; and

WHEREAS, Clear Fork Baptist Church was immortalized by a previous pastor, Morris M. Gaskins; in his book, "A Lighthouse in the Wilderness," he preserves the historical data on the church and the adjacent cemetery in which the remains of her first pastor, Isaac Denton; his wife; and many early members of the church are interred; and the church has also adopted "A Lighthouse in the Wilderness" as her theme; and since 1802, she has been blessed with twenty-four pastors who have demonstrated immense faith, devotion, and dedication to God and to the fellowship of Clear Fork Baptist Church; and

WHEREAS, currently comprised of 325 members, Clear Fork Baptist Church is actively involved in Foreign Missions in Africa, Australia, Bolivia, Canada, Chili, Deaf Ministries, Dominica, West Indies, Germany, Guyana, South America, Haiti, India, Marshall Islands, Mexico, Micronesia, Papua, New Guinea, Philippines, Scotland, Spain, Sri Lanka, United States Military, and Bible Distribution to Foreign Fields; and Home Missions include the Children's Home, Radio Ministry, Prison Ministries, Hispanic Ministries, and Vacation Bible Schools; and

WHEREAS, for the past two hundred years, the members and pastorate of Clear Fork Baptist Church have faithfully labored to convey the word of God and to provide spiritual guidance to those within both the congregation and community; and Pastor Bob Sawyer is to be commended for his vision and leadership abilities in leading his flock of the Clear Fork Baptist Church, and his congregation is indeed blessed to receive the peace and joy their shepherd so lovingly gives; and

WHEREAS, Clear Fork Baptist Church will, on April 7, 2002, begin a four-day memorial celebration of her two hundredth anniversary, with her congregation praising the efforts of all those associated with Clear Fork Baptist Church, who, throughout the past two hundred years, served God by serving others;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives is indeed proud and honored to recognize Clear Fork Baptist Church upon the occasion of her two hundredth anniversary on April 1, 2002. We wish to Clear Fork Baptist Church success in all future endeavors.

Section 2. When the House of Representatives adjourns this day, it does so in honor of the two hundredth anniversary of Clear Fork Baptist Church.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Pastor Bob Sawyer, Clear Fork Baptist Church, P. O. Box 155, Albany, Kentucky 42602.

There being no objection **HR 251** was adopted.

Representative Stewart moved the adoption of the following **Legislative Citation No. 104**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in reverent memory of Teena Wells, July 24, 1948-March 10, 2002, and to respectfully join with Representative Jim Stewart in expressing its deepest sympathy to the Wells, Higgins, and Woolum Families and to all who share in the loss of this remarkable lady. The daughter of Druscilla Higgins Woolum and the late Rufus David Higgins, she is survived by her beloved husband, Troy Wells; mother, Druscilla; daughter, Arlinda Henry; siblings, Rufus and LaVetta; several nieces and nephews; and, a host of other family members and loved ones. A former employee of the Union Planters Bank of Corbin, active member of the Corbin Kiwanis Club, and faithful member of the Grays Baptist Church, Teena Wells will long be remembered for the many contributions she made to her family, friends and community and will be deeply missed by all those whose lives were touched by her remarkable presence. Done in Frankfort, Kentucky, this twenty-first day of March, in the year two thousand and two.

Legislative Citation No. 104 was adopted without objection.

Representative Bowling moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bowling moved that his vote be changed from "nay" to "yea" on **SB 147**. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nesler moved that he be recorded as voting "yea" on **SB 147**. Agreed.

Representative Wayne moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Wayne moved that he be recorded as voting "yea" on **SB 133** and **SB 138**. Agreed.

Representative McKee moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative McKee moved that he be recorded as voting "yea" on **SB 147** and **SB 133**. Agreed.

Representative Meeks moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Meeks moved that he be recorded as voting "yea" on **HCR 130**. Agreed.

Representative Colter moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Colter moved that she be recorded as voting "yea" on **HB 393**. Agreed.

Floor Amendments

Floor Amendment No. 1 to **SB 100**, by Representative Gray:

On Page 1, Line 18 after the word "***benefits.***" by inserting the following, "***Any deputy sheriff or peace officer who has entered into a contract authorized under this subsection may reimburse the law enforcement agency that initially hired the deputy sheriff or peace officer for the actual costs incurred and expended. This reimbursement shall free the deputy sheriff or peace officer from the obligatory period of service mandated by the employment contract***."

On Page 2, Line 9 after the word "***benefits.***" by inserting the following, "***Any peace officer who has been employed by a state law enforcement agency for three (3) years or less may reimburse the state law enforcement agency that initially hired the peace officer for the costs expended with the initial hiring of that officer. This reimbursement shall free the peace officer from any period of service requirements mandated by this subsection***."

Floor Amendment No. 19 to the Committee Substitute to **HB 768**, by Representative Riner:

On page 1, line 14, by deleting "***and***";

On page 1, line 18, after "***Chapter 154A***" by inserting "***; and***";

On page 1, between lines 18 and 19 by inserting

"***(d) Provide that the Gaming Commission and the Kentucky Lottery Corporation work together to ensure that each*** *electronic gaming device is equipped with a highly visible sign reading: "WARNING: Electronic gaming devices have been associated with the undermining of individual fiscal and social responsibility, as well as having a destructive impact on the families and children of those who participate in electronic gaming activities"*".

Floor Amendment No. 20 to the Committee Substitute to **HB 768**, by Representative Riner:

On page 116, between lines 12 and 13, by inserting the following:

"SECTION 63. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

Whereas the General Assembly finds that it is in the public interest for all citizens of the Commonwealth to appreciate the virtues associated with hard work and the dangers and consequences of participation in gambling activities, including electronic gaming, which has been known to undermine the fiscal and social responsibility of individuals, the integrity of families, and the ethos of communities through gambling addictions and crimes relating to those addictions. In order to warn Kentucky's youth of the destructive impact of gambling, the Kentucky Board of Education shall promulgate an administrative regulation that prescribes the local district responsibilities and the essential elements that shall be integrated into the K-12 curriculum, including but not limited to understanding fiscal responsibility, mathematical odds and the consequences of gambling addictions.";

On page 116, line 13, by renumbering "Section 63." to "Section 64.";

On page 116, line 27, by renumbering "Section 64." to "Section 65.";

On page 117, line 6, by renumbering "Section 65." to "Section 66."; and

On page 117, line 10, by renumbering "Section 66." to "Section 67.".

Floor Amendment No. 21 to the Committee Substitute to **HB 768**, by Representative Callahan:

Beginning on page 1, line 1 and deleting all the language on page 1, line 1 through page 117, line 16, in its entirety, and inserting the following new provisions in lieu thereof:

"SECTION 1. KRS CHAPTER 230A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds and declares that:

(1) In authorizing electronic gaming as described in this chapter, it is the purpose and intent of the General Assembly to:

(a) Provide non-state-supported financial assistance to Kentucky's horse racing and breeding industry in the form of new revenues generated by the operation of electronic gaming devices, which will enable the industry to create new jobs, encourage investment, and promote excellence in racing through higher purses for horsemen, renovation, and modernization of the state's aging racetracks;

(b) Restrict the operation of electronic gaming devices to the state's existing racetracks where wagering is already permitted and the requisite controls exist; and

(c) Provide for greater integrity, consistency, economy and efficiency by requiring that electronic gaming authorized under this chapter be a part of the state lottery and under the supervision of the Kentucky Lottery Corporation created under KRS Chapter 154A;

(2) The operation of electronic gaming devices as described in this chapter will generate substantial new revenue for state government so that state government can better serve the needs of the citizens of this state;

(3) The horse racing industry in Kentucky provides a valuable tourism resource for the Commonwealth and provides significant economic benefits to the citizens of this state through the provisions of jobs and the generation of state revenues;

(4) This valuable tourism resource is facing serious economic harm from competition resulting from increased gaming opportunities in neighboring states, including riverboat casinos and video lottery gaming. The operation of electronic gaming devices at certain facilities in this state would allow the racing industry to more effectively compete with out-of-state gaming to keep racing viable and protect the substantial economic contribution the racing industry makes to the Commonwealth;

(5) The General Assembly recognizes the need to protect the public against a statewide proliferation of gaming;

(6) The racing industry currently operates in limited areas of the Commonwealth where pari-mutuel wagering has been accepted, and the operation of additional gaming options exclusively at existing racetracks would not conflict with established community moral standards;

(7) The playing of electronic gaming devices as described in this chapter will be limited to persons twenty-one (21) years or older;

(8) The Kentucky Lottery Corporation established under KRS Chapter 154A will provide the expertise necessary to oversee

the operation of electronic gaming devices in an efficient and effective manner;

(9) The racing industry has extensive experience and expertise in the management of gaming activities, which ensures that electronic gaming devices will be operated with honesty and integrity;

(10) The racing industry has extensive experience and expertise in the development and operation of first-class entertainment facilities, including food and other amenities, which ensures that the operation of electronic gaming devices by licensed racetracks as described in this chapter will create additional economic development and provide competition for out-of-state gaming that will promote the racing and tourism industries in the state and will generate substantial revenue for the state and the racing industry.

SECTION 2. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "Associated equipment" means any hardware located on a licensed racetrack's premises which is connected to the electronic gaming device system for the purpose of performing communication, validation, or other functions, but not including the electronic gaming devices or the telecommunications facilities of a public utility;

(2) "Central computer system" means any central site computer controlled by the Lottery Corporation to which electronic gaming devices communicate for purposes of information retrieval and other purposes authorized by this chapter;

(3) (a) "Control" means:

1. The direct or indirect possession by a person and the affiliates and associates of that person of the power to direct or cause the direction of the management and policies of an eligible association, whether through the ownership of voting securities, by contract, or otherwise;

2. The direct or indirect beneficial ownership by a person and the affiliates and associates of that person of, or the direct or indirect power of a person and the affiliates and associates of that person to vote or direct the voting of, twenty percent (20%) or more of the votes entitled to be cast by an eligible association's owners; or

3. The direct or indirect beneficial ownership by a person and the affiliates and associates of that person of twenty percent (20%) or more of the ownership interests in an eligible association.

(b) For purposes of this subsection:

1. "Affiliate" means a person who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, a specified person; and

2. "Associate," when used to indicate a relationship with any person, means:

a. Any corporation or organization, other than the eligible association or a subordinate entity of the eligible association, of which that person is an officer or equivalent position or the beneficial owner of ten percent (10%) or more of any class of ownership interests;

b. Any trust or other estate in which that person has a substantial beneficial interest or as to which that person serves as trustee or in a similar fiduciary capacity; and

c. Any relative or spouse of that person, or any relative of that spouse, any one of whom has the same home as that person;

(4) "Electronic gaming device" means a Lottery Corporation-approved electronic or mechanical device sold, leased, or transferred to a racetrack licensed as an electronic gaming device operator, connected with the Lottery Corporation's central computer system, and used for the purpose of playing electronic gaming device games. An electronic gaming device may:

(a) Simulate the play of one or more games of chance;

(b) Use spinning reels or video displays or both;

(c) Dispense coins, currency, vouchers, tokens, or redemption tickets directly to winning players;

(d) Use an electronic credit system making the deposit of coins, currency, vouchers, or tokens unnecessary. However, no electronic gaming device shall accept a credit card or debit card from a player for the exchange or purchase of electronic gaming device game credits or for an advance of coins, currency, vouchers, tokens, or redemption tickets to be utilized by a player to play an electronic gaming device game, or extend credit, in any manner, to a player so as to enable the player to play an electronic gaming device game; or

(e) Have the multifunctional ability to conduct both electronic gaming device games and pari-mutuel wagering on horse racing;

(5) "Electronic gaming device distributor" means any person holding a license granted by the Lottery Corporation to engage in the business of buying, selling, leasing, servicing, or repairing electronic gaming devices, associated equipment, or the parts thereof for use by electronic gaming device operators;

(6) "Electronic gaming device employee" means any floor attendant, service technician, or validation manager who performs services for an electronic gaming device operator or for an electronic gaming device operations manager in connection with the operation of electronic gaming devices;

(7) "Electronic gaming device game" means any game, including but not limited to video poker, keno, line-up or blackjack, which is displayed or played on an electronic gaming device and which:

(a) Is connected to the Lottery Corporation's central computer system by an on-line or dial-up telecommunications system;

(b) Is utilized by a player's insertion of coins, currency, vouchers, or tokens or entry of electronic credits into an electronic gaming device, which causes game play credits to be displayed on the electronic gaming device, and with respect to which, each game play credit entitles a player to choose one or more symbols or numbers or to cause the electronic gaming device to randomly select symbols or numbers;

(c) Allows the player to win additional game play credits, coins, currency, vouchers or tokens based upon game rules which establish the random selection of winning combinations of symbols or numbers or both and the number of free play credits, coins, currency, vouchers, or tokens to be awarded for each winning combination of symbols or numbers or both;

(d) Is based upon machine-generated random selection of winning combinations based wholly or predominantly on chance;

(e) In the case of an electronic gaming device operator choosing to operate an electronic gaming device, which allows the player an option to select replacement symbols, numbers, additional symbols, or numbers after the game is initiated, in the course of play, either:

1. Signals the player, prior to any optional selection by the player of randomly generated replacement symbols or numbers, as to which symbols or numbers should be retained by the player to present the best chance, based upon probabilities, that the player may select a winning combination;

2. Signals the player, prior to any optional selection by the player of randomly generated additional symbols or numbers, as to whether such additional selection presents the best chance, based upon probabilities, that the player may select a winning combination; or

3. Randomly generates additional or replacement symbols and numbers for the player after automatically selecting the symbols and numbers which should be retained to present the best chance, based upon probabilities, for a winning combination, so that in any event, the player is not permitted to benefit from any personal skill, based upon a knowledge of probabilities, before deciding which optional numbers or symbols to choose in the course of electronic gaming device play; and

(f) Allows a player at any time to simultaneously clear all game play credits and receive coins, currency, or a redemption ticket equal to the value of the free plays cleared from the electronic gaming device;

(8) "Electronic gaming device license" means authorization granted by the Lottery Corporation to an eligible association which is first licensed by the Racing Commission to conduct thoroughbred or standardbred racing under KRS Chapter 230, permitting the eligible association to operate electronic gaming devices at a racetrack in accordance with the provisions of this chapter;

(9) "Electronic gaming device manufacturer" or "manufacturer" means any person holding a license granted by the Lottery Corporation to engage in the business of designing, building, constructing, assembling, or manufacturing electronic gaming devices, the electronic computer components of the electronic gaming devices, the random number generator of the electronic gaming devices, or the cabinet in which it is housed, and whose product is intended for sale, lease, or other transfer to a licensed racetrack in Kentucky which is an electronic gaming device operator. An electronic gaming device manufacturer may contract directly for the sale, lease, or other transfer of any such product to a racetrack in Kentucky licensed as an electronic gaming device operator, without holding a separate license as an electronic gaming device distributor;

(10) "Electronic gaming device operations manager" means any person holding a license granted by the Lottery Corporation to manage, and which has contracted with an electronic gaming device operator to manage, the operation of the electronic gaming devices of an electronic gaming device operator;

(11) "Electronic gaming device operator" means an eligible association, or associations if applicable, which holds an electronic gaming device license;

(12) "Eligible association" means a person licensed by the Racing Commission to own and operate a racetrack, conduct a live horse race meeting at the racetrack and conduct pari-mutuel wagering thereon under KRS Chapter 230. Any association licensed to conduct pari-mutuel wagering or horse races under KRS 230.361(4) or KRS 230.398, or any association that changes the primary breed of live racing after January 1, 2002, shall not qualify as an eligible association;

(13) "Floor attendant" means a person who holds a license issued by the Lottery Corporation and who corrects paper jams and bill jams in electronic gaming devices and also provides courtesy services for electronic gaming device players;

(14) "Lottery Corporation" means the Kentucky Lottery Corporation established under KRS Chapter 154A;

(15) "Gaming income" means the total amount of coins, currency, vouchers, tokens, or electronic credits inserted or entered into the electronic gaming devices operated by an electronic gaming device operator, minus the total value of coins, currency, vouchers, and tokens won by a player and game credits which are cleared from the electronic gaming

devices in exchange for coins, currency, vouchers, tokens, or redemption tickets;

(16) "Progressive game" means any game whose jackpot grows and accumulates as it is being played on an electronic gaming device and whose outcome is randomly determined by the play of electronic gaming devices;

(17) "Racetrack" or "licensed racetrack" means a facility owned or leased by an eligible association and licensed by the Racing Commission as a racetrack under KRS Chapter 230; provided, for the purposes of this chapter, "racetrack" or "licensed racetrack" includes only a facility which was licensed by the Racing Commission and existing as of January 1, 2001. The term "racetrack" or "licensed racetrack" does not include any simulcast facility as defined in KRS 230.210(11); provided, the term "racetrack" or "licensed racetrack" may include any facility located within the same county as the facility of the eligible association that has been approved by the Racing Commission as of January 1, 2001, pursuant to KRS 230.300 as part of the place, track, or enclosure, or any other facility that is located within the same county as the facility of the eligible association and that, after January 1, 2001:

- *(a) Is approved by the Racing Commission pursuant to KRS 230.300 as part of the place, track, or enclosure; and*
- *(b) If the other facility is not contiguous to the facility of the eligible association, is approved by a resolution of the governing body of the local jurisdiction in which the other facility is located; and*
- *(c) In the case of a county in which more than one licensed racetrack is located, is approved in writing by the other licensed racetrack.*

Provided further, however, that an eligible association may operate electronic gaming devices at only one facility.

(18) "Racing Commission" means the Kentucky Racing Commission established under KRS Chapter 230;

(19) "Security personnel" means a person who holds a license issued by the Lottery Corporation, who has the necessary qualifications as to training and experience, and who is responsible for maintaining the security and integrity of all games and facilities authorized under this chapter;

(20) "Service technician" means a person who holds a license issued by the Lottery Corporation and who performs service, maintenance, and repair on licensed electronic gaming devices in this state;

(21) "Simulcast facility" means any facility approved under KRS 230.380 to simulcast racing and conduct pari-mutuel wagering; and

(22) "Validation manager" means a person who holds a license issued by the Lottery Corporation and who performs electronic gaming device redemption services.

SECTION 3. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Electronic gaming under this chapter shall be a part of the Kentucky state lottery and the Lottery Corporation shall have responsibility and power to supervise and regulate all electronic gaming device activities in the Commonwealth.

(2) Nothing in this chapter shall be deemed to limit, restrict, or diminish the powers or jurisdiction of the Racing Commission, including but not limited to the Racing Commission's authority under subsection (10) of Section 37 of this Act. The Lottery Corporation and the Racing Commission shall each appoint four (4) members to an advisory board which shall provide guidance and coordination to the Lottery Corporation and the Racing Commission in connection with the implementation of electronic gaming under this chapter.

SECTION 4. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The Lottery Corporation shall oversee the administration of this chapter to ensure that these laws are administered for the protection of the public and in the public interest in accordance with the policy of the state.

(2) The duties of the Lottery Corporation shall include:

- *(a) Performing a continuing study of the electronic gaming industry in this country and making periodic reports to the Governor and the Legislature concerning needed revisions in the laws of the state that provide for the licensing, regulation, and taxation of all electronic gaming;*
- *(b) Initiating enforcement proceedings against any licensees, employees, and other persons involved in electronic gaming to enforce the provisions of this chapter, and to enforce the other applicable laws and applicable rules and regulations of the Lottery Corporation;*
- *(c) Through the Lottery Corporation board of directors established under KRS 154A.030, considering and deciding appeals from actions taken by the Lottery Corporation president, defined under KRS 154A.010; and*
- *(d) Performing such other duties and exercising such other powers as are either expressly or by reasonable implication authorized by this chapter as shall be necessary to achieve the primary purpose of providing effective and honest licensing and regulation of electronic gaming.*

(3) The provisions of this chapter with respect to electronic gaming licenses shall be administered by the Lottery Corporation for the protection of the public and in the public interest in accordance with the policy of this state.

(4) The Lottery Corporation and its agents may:

- *(a) Inspect and examine all premises wherein electronic gaming activities are conducted or electronic gaming devices or equipment are manufactured, sold, or distributed;*
- *(b) Inspect all electronic gaming equipment and supplies in, upon, or about such premises;*

(c) Summarily seize and remove from such premises and impound any equipment, supplies, documents, or records related to electronic gaming for the purpose of examination and inspection;

(d) Demand access to and inspect, examine, photocopy, and audit all papers, books, and records of any applicant or licensee, on his or her premises, or elsewhere as practicable, and in the presence of the applicant or licensee, or his or her agent, respecting the gross income produced by any electronic gaming business, and require verification of income, and all other matters related to electronic gaming affecting the enforcement of the policy or any of the provisions of this chapter; and

(e) Demand access to and inspect, examine, photocopy, and audit all papers, books and records of any affiliate of a licensee related to electronic gaming who the commission knows or reasonably suspects is involved in the financing, operation, or management of the electronic gaming activities of the licensee. The inspection, examination, photocopying, and audit may take place on the affiliate's premises or elsewhere as practicable, and in the presence of the affiliate or its agent.

(5) For the purpose of conducting audits after the cessation of electronic gaming by a licensee, the former licensee shall furnish, upon demand of an agent of the Lottery Corporation, books, papers, and records as necessary to conduct the audits. The former licensee shall maintain all books, papers, and records necessary for audits for a period of one (1) year after the date of the surrender or revocation of his or her electronic gaming license. If the former licensee seeks judicial review of a deficiency determination or files a petition for a redetermination, he or she shall maintain all books, papers, and records until a final order is entered on the determination.

(6) The Lottery Corporation may investigate, for the purpose of prosecution, any suspected regulatory or criminal violation of the provisions of this chapter. For the purpose of the administration and enforcement of those provisions, those agents of the Lottery Corporation whose duties include the enforcement, or the investigation of suspected violations, of statutes or regulations, have the powers of a peace officer of this state.

(7) The Lottery Corporation shall have full power and authority to issue subpoenas and compel the attendance of witnesses at any place within this state, to administer oaths, and to require testimony under oath. Any process or notice may be served in the manner provided for service of process and notices in civil actions. The Lottery Corporation may pay such transportation and other expenses of witnesses as it may deem reasonable and proper. Any person making a false oath in any matter before the Lottery Corporation shall be guilty of perjury. The Lottery Corporation may appoint hearing examiners who may administer oaths and receive evidence and testimony under oath.

SECTION 5. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The Lottery Corporation shall investigate the qualifications of each applicant for the issuance, renewal, transfer, or reinstatement of any license under this chapter.

(2) If the Lottery Corporation has reason to believe, either because of information gained by investigation or because of information brought to its attention by others, that a violation of law by a licensee or other person involved with an electronic gaming establishment has occurred, the Lottery Corporation may investigate such activities for the purpose of determining if the alleged violations of law have occurred, and thereafter may take any lawful actions to enforce any violation of law, including:

(a) The initiation of proceedings by the Lottery Corporation that may result in the suspension or revocation of any license granted under this chapter and a levy of fines;

(b) The institution of proceedings in the Circuit Court of a county for injunctive relief; and

(c) The referral of the matter to the Attorney General or the county or Commonwealth's attorney of the county for criminal prosecution.

(3) If after any investigation the Lottery Corporation is satisfied that a license or prior approval by the Lottery Corporation of any transaction for which approval was required or permitted under the provisions of this chapter should be limited, conditioned, suspended, or revoked or that a fine should be levied, the Lottery Corporation shall initiate a hearing by filing its complaint with the licensee and transmitting therewith a summary of evidence bearing on the matter and the transcript of testimony at any investigative hearing conducted by or on behalf of the licensee. The complaint shall be a written statement of charges which shall set forth in ordinary and concise language the acts or omissions with which the respondent is charged. It shall specify the statutes and regulations which the respondent is alleged to have violated.

(4) The respondent shall answer within twenty (20) days after the service of the complaint.

(5) The Lottery Corporation or its hearing examiner shall conduct proceedings in accordance with administrative regulations of the corporation and KRS Chapter 13B. After such proceedings as may be required or permitted by the Lottery Corporation, the hearing examiner may recommend that the Lottery Corporation take any appropriate action, including revocation, suspension, limitation, or conditioning of a license, or imposition of a fine not to exceed ten thousand dollars ($10,000) for each violation.

(6) The hearing examiner shall prepare a written decision containing his or her recommendation to the Lottery Corporation and shall serve it on all parties. Any respondent that disagrees with the hearing examiner's recommendation may ask the Lottery Corporation to review the recommendation within ten (10) days of service of the recommendation.

(7) The Lottery Corporation board of directors established under KRS 154A.030 shall review the recommendation. The board of directors may remand the case to the hearing examiner for the presentation of additional evidence upon a showing of good cause why the evidence could not have been presented at the previous hearing.

(8) The Lottery Corporation board of directors shall by a majority vote accept, reject, or modify the recommendation.

(9) If the Lottery Corporation limits, conditions, suspends, or revokes any license or imposes a fine, or denies, limits, conditions, suspends, or revokes any prior approval, it shall issue its written order therefor, and shall furnish each party notification of the order.

(10) Any such limitation, condition, revocation, suspension, or fine so made is effective until reversed by the Lottery Corporation or upon judicial review, except that the Lottery Corporation may stay its order pending a rehearing by the Lottery Corporation or judicial review upon such terms and conditions as it deems proper.

SECTION 6. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

The Lottery Corporation may issue an emergency order for suspension, limitation, or conditioning of a license or may issue an emergency order requiring a licensed electronic gaming establishment to keep any individual licensee from the premises of the licensed electronic gaming establishment or not to pay that licensee any remuneration for services or any profits, income, or accruals on his or her investment in the licensed electronic gaming establishment in the following manner:

(1) An emergency order may be issued only when the Lottery Corporation believes that:

  (a) Any licensee has willfully failed to report, pay, or truthfully account for and pay over any fee imposed by the provisions of this chapter or willfully attempted in any manner to evade or defeat any such fee or payment thereof;

  (b) Any licensee or electronic gaming device employee has cheated at any electronic gaming device game; or

  (c) This action is necessary for the immediate preservation of the public peace, health, safety, morals, good order, or general welfare.

(2) The emergency order shall set forth the grounds upon which it is issued, including a statement of facts constituting the alleged emergency necessitating such action.

(3) An emergency order may be issued only with the approval of and upon signature of the Lottery Corporation president as defined in KRS 154A.010(6).

(4) The emergency order shall be effective immediately upon issuance and service upon the licensee or resident agent of the licensee or electronic gaming employee. The emergency order may suspend, limit, condition, or take other action in relation to the license of one or more persons in an operation without affecting other individual licensees or the licensed electronic gaming establishment. The emergency order shall remain effective until further order of the Lottery Corporation or final disposition of the case.

(5) Within five (5) days after issuance of an emergency order, the Lottery Corporation president as defined in KRS 154A.010(6) shall cause a complaint to be filed and served upon the person or entity involved. Thereafter, the person or entity against whom the emergency order has been issued and served shall be entitled to a hearing before the Lottery Corporation board of directors established under KRS 154A.030.

SECTION 7. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The Lottery Corporation shall adopt such administrative regulations governing the operation of electronic gaming devices consistent with the provisions of this chapter as the Lottery Corporation deems necessary in order that the operation of electronic gaming devices shall be initiated at the earliest feasible time after the effective date of this Act and shall produce the maximum amount of gaming income consistent with the dignity of the state and the protection of the public. The administrative regulations shall provide for all matters necessary for the secure, fair, efficient, and economical operation of electronic gaming devices consistent with the provisions of this chapter, including but not limited to the following:

  (a) Licensing of electronic gaming device operators, electronic gaming device operations managers, electronic gaming device distributors, electronic gaming device employees, electronic gaming device manufacturers, security personnel, and others to ensure the suitability of those permitted to own, lease, operate, work in, do business with, and invest in electronic gaming devices, including setting application fees and annual fees for licensing, but which application fees shall not exceed ten thousand dollars ($10,000) per application for electronic gaming device operators and electronic gaming device manufacturers, one hundred dollars ($100) per application for electronic gaming device operations managers and one hundred dollars ($100) per application for electronic gaming device distributors, and which annual fees for licensing shall not exceed Twenty dollars ($20) for electronic gaming device employees and others;

  (b) Oversight and management of the Lottery Corporation's central computer system for electronic gaming devices;

  (c) Inspection and approval of electronic gaming devices and associated equipment, and adopting specifications and standards for electronic gaming devices and associated equipment, including hardware and software;

  (d) Adopting reporting requirements for electronic gaming device operators, electronic gaming device employees,

electronic gaming device manufacturers, and others as necessary to ensure secure operation of electronic gaming devices; and

(e) Examination of all accounts, bank accounts, financial statements, and records of any licensee in a licensee's possession or under its control and relating to the operation of electronic gaming devices.

(2) In adopting, amending, or repealing administrative regulations, the Lottery Corporation shall comply with the provisions of KRS Chapter 13A.

SECTION 8. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Any other provision of law to the contrary notwithstanding, the Lottery Corporation is authorized to implement and regulate the operation of electronic gaming devices exclusively by eligible associations at licensed racetracks in this state in accordance with the provisions of this chapter. The Lottery Corporation shall oversee the operation of electronic gaming devices to ensure that all applicable laws are administered for the protection of the public in accordance with the provisions of this chapter.

(2) The Lottery Corporation, in addition to any other powers granted by this chapter, shall have the powers necessary and proper to carry out and effectuate the provisions of this chapter relating to electronic gaming devices, including the power to:

(a) Install and operate Lottery Corporation-approved telecommunications lines to provide a direct communication between each electronic gaming device and the Lottery Corporation's central computer system for the transmission to the Lottery Corporation of relevant data;

(b) Link all electronic gaming devices to the Lottery Corporation's central computer system to transmit relevant data using procedures approved by the Lottery Corporation. The central computer system used by the Lottery Corporation may not limit participation to only one (1) manufacturer of electronic gaming devices, and in no event shall any manufacturer account for more than fifty percent (50%) of available electronic gaming device games presented for play by any electronic gaming device operator;

(c) Employ necessary personnel to effectively carry out its responsibilities under this chapter;

(d) Conduct criminal background investigations on all applicants for licenses relating to electronic gaming device games under this chapter with any assistance, as necessary, from the Kentucky State Police. The Lottery Corporation shall reimburse the Kentucky State Police for the actual costs of any investigative assistance provided;

(e) Provide for the allocation and disbursement of gaming income paid to the Lottery Corporation as provided in Section 14 of this Act;

(f) Inspect all premises at which electronic gaming devices are operated or manufactured, sold, or distributed, and inspect all related equipment and supplies at such premises;

(g) Demand access to and inspect, photocopy, and examine all papers, books, and records of any applicant or licensee, on its premises or elsewhere as practicable, and in the presence of the applicant or licensee, or its agent, relating to the gaming income produced by the operation of electronic gaming devices, and other matters affecting the enforcement of the provisions of this chapter; and

(h) Submit quarterly and annual reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing financial statements which shall include, but not be limited to, the progress of implementing the operation of electronic gaming devices, the allocation and distribution of gaming income, and Lottery Corporation expenses relating to the electronic gaming devices.

SECTION 9. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) An electronic gaming device manufacturer and an electronic gaming device distributor may not sell, lease, or otherwise transfer an electronic gaming device or associated equipment for placement at a licensed racetrack in this state unless the electronic gaming device and associated equipment have been approved by the Lottery Corporation. Only electronic gaming device manufacturers or electronic gaming device operators may apply for approval of an electronic gaming device or associated equipment. The electronic gaming device manufacturer or the electronic gaming device operator shall submit to the Lottery Corporation two (2) copies of electronic gaming device illustrations, schematics, block diagrams, circuit analysis, technical and operation manuals, and any other information requested by the Lottery Corporation for the purpose of analyzing and testing the electronic gaming device or associated equipment.

(2) An electronic gaming device manufacturer or electronic gaming device operator which applies for approval as described in subsection (1) of this section shall pay all costs of testing, examination, analysis, and transportation of the prototypes of electronic gaming devices and associated equipment for which such an application is made. The Lottery Corporation may require that the electronic gaming device manufacturer or electronic gaming device operator provide specialized equipment or pay for the services of an independent technical expert to conduct the tests. If any electronic gaming device or associated equipment fails the acceptance test conducted by the Lottery Corporation, the electronic gaming device manufacturer shall make all modifications required by the Lottery Corporation.

(3) Each electronic gaming device and associated equipment approved for placement at a licensed racetrack shall conform to the exact specifications of the prototype tested and approved by the Lottery Corporation. An electronic gaming device

manufacturer or electronic gaming device operator shall not change the assembly or operational functions of an electronic gaming device or associated equipment licensed for placement in this state unless a request for modification of an existing prototype is approved by the Lottery Corporation. The request shall contain a detailed description of the type of change, the reasons for the change, and technical documentation of the change. If any electronic gaming device or associated equipment which has not been approved by the Lottery Corporation is supplied by a manufacturer and operated by a licensed racetrack, the Lottery Corporation shall direct that the use of that licensed racetrack's and manufacturer's noncomplying electronic gaming devices and associated equipment cease immediately.

(4) In those cities, counties, urban-county governments, charter county governments, or consolidated local governments which have engaged in planning operations pursuant to KRS Chapter 100, facilities developed for the activities contemplated by this chapter shall be deemed to be permissible accessory uses to licensed racetracks without further approval from the applicable planning unit or body whether or not these facilities are specifically cited in the applicable zoning regulations. These facilities shall also be deemed to be permitted uses in all zones in which the applicable zoning regulations allow licensed racetracks, subject only to the permitting requirements and conditions upon which racetracks are allowed, whether or not these facilities are specifically cited in the regulations and whether or not these facilities are located on the same premises as a licensed racetrack.

(5) No racetrack shall engage in electronic gaming under the provisions of this chapter, nor shall any racetrack qualify to be licensed as an electronic gaming device operator, if any person having an ownership interest in that racetrack sells property, goods, or services related to electronic gaming to eligible associations, to the Kentucky Lottery Corporation under KRS Chapter 154A, or to electronic gaming device operators under this chapter.

SECTION 10. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Application for any license under this chapter shall be made to the Lottery Corporation on forms furnished by the Lottery Corporation and in accordance with administrative regulations adopted by the Lottery Corporation. Not later than thirty (30) days after the effective date of this Act, the Lottery Corporation shall have taken all actions necessary to furnish application forms to applicants, and to cause the Lottery Corporation and its staff to be prepared to receive, process, and act upon these applications.

(2) The application for a license shall include:

- *(a) The name of the proposed licensee;*
- *(b) In the case of an electronic gaming device operator, the location of the proposed operation;*
- *(c) In the case of an electronic gaming device operator, the electronic gaming devices to be operated; and*
- *(d) Such other information and details as the Lottery Corporation may require.*

(3) The Lottery Corporation shall furnish to the applicant supplemental forms which the applicant shall complete and file with the application. The supplemental forms shall require, but shall not be limited to, complete information and details with respect to the applicant's criminal record, business activities, financial affairs and business associates, covering at least a ten (10) year period immediately preceding the date of filing of the application.

(4) In the case of an electronic gaming device operator, the applicant shall also submit to the Lottery Corporation a copy of the application previously submitted to the Racing Commission for licensure as a racetrack under KRS Chapter 230, and a copy of the license that was subsequently issued by the Racing Commission, and the Lottery Corporation shall keep confidential all matters or material contained therein required to be kept confidential by the Racing Commission pursuant to KRS Chapter 230.

(5) Upon a determination by the Lottery Corporation of the suitability of the applicant based on criteria established in this chapter, the Lottery Corporation shall issue the requested license.

SECTION 11. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) No license shall be granted under this chapter unless the Lottery Corporation has determined that the applicant satisfies all of the following qualifications:

- *(a) An applicant for an electronic gaming device operator license shall be an eligible association which holds a valid license as a racetrack under KRS Chapter 230;*
- *(b) An applicant for any license under this chapter shall be a person of good character and integrity;*
- *(c) An applicant for any license under this chapter shall be a person whose background, including criminal record, reputation, and associations, does not pose a threat to the security and integrity of electronic gaming device games or to the public interest of the state. All new applicants for licenses issued by the Lottery Corporation shall furnish fingerprints for a national criminal records check by the Lottery Corporation or its division of security and the Federal Bureau of Investigation. Investigative assistance may be provided by the Kentucky State Police in accordance with subsection (2)(d) of Section 8 of this Act. Fingerprints shall be furnished by all persons required to be named in the application and shall be accompanied by a signed authorization for the release of information by the Kentucky State Police and the Federal Bureau of Investigation. The Lottery Corporation shall revoke the license of any person who is convicted of any of the violations or crimes referenced in this subsection;*
- *(d) No applicant shall be granted a license under this chapter who:*

1. Has been convicted of any violation of this chapter or any crime constituting a felony related to theft, bribery, or gambling, unless at least ten (10) years have passed since satisfactory completion of the sentence or probation imposed by the court for each conviction;

2. Has been convicted of any illegal gambling activity in this or any other jurisdiction, unless at least ten (10) years have passed since satisfactory completion of the sentence or probation imposed by the court for each conviction; or

3. Has made a statement of material fact to the Lottery Corporation, knowing the statement to be false, unless at least ten (10) years have passed since the statement was made;

(e) An applicant for any license under this chapter shall demonstrate the business ability and experience necessary to establish, operate, and maintain the business for which the license application is made which, with respect to an electronic gaming device operator, may be demonstrated through the retention of an electronic gaming device operations manager;

(f) An applicant for any license under this chapter shall have secured adequate financing for the business for which the license application is made. The Lottery Corporation shall determine whether financing is adequate to support the successful performance of the duties and responsibilities of the licensee. An applicant for an electronic gaming device operator license shall disclose all financing or refinancing arrangements for the purchase, lease, or other acquisition of electronic gaming devices and associated equipment in the degree of detail requested by the Lottery Corporation. An electronic gaming device operator shall request Lottery Corporation approval of any change in financing or lease arrangements for the purchase, lease, or other acquisition of electronic gaming devices and associated equipment at least thirty (30) days before the effective date of the change and the Lottery Corporation shall act upon the application within thirty (30) days after receipt of such a request; and

(g) An applicant for an electronic gaming device operator license or a license renewal shall file with the Lottery Corporation a copy of any current or proposed agreement between the applicant and any manufacturer for the sale, lease, or other transfer to the racetrack of electronic gaming devices and associated equipment.

(2) No license shall be granted to an applicant for any license under this chapter until the Lottery Corporation determines that each person who has control of the applicant meets all applicable qualifications of subsection (1) of this section.

(3) An applicant for any license under this chapter shall furnish all information, including financial data and documents, certifications, consents, waivers, individual history forms, and other materials necessary for the purpose of determining qualifications for a license. No license shall be granted to an applicant who fails to provide this information and documentation. The burden of proving qualification for any license is on the applicant.

(4) An applicant for any license under this chapter bears all risks of adverse public notice, embarrassment, criticism, damages, or financial loss which may result from the disclosure or publication of any material or information obtained by the Lottery Corporation pursuant to action on an application. The applicant shall, as a part of its application, expressly waive any and all claims against the Lottery Corporation, the Commonwealth of Kentucky, and the employees of either for damages as a result of any background investigation, disclosure, or publication relating to an application for a license under this chapter.

(5) All application, registration, and disclosure forms and other documents submitted to the Lottery Corporation by or on behalf of the applicant for the purpose of determining qualification for a license shall be sworn to or affirmed before an officer qualified to administer oaths.

(6) An applicant for any license under this chapter who knowingly fails to reveal any fact material to qualification or who knowingly submits false or misleading material information is ineligible for the license.

(7) Two (2) or more eligible associations which operate racetracks in the same county may enter an agreement to operate a joint electronic gaming device facility at the licensed racetrack of either association and may apply for and be granted a joint license under this chapter. The agreement between the associations may address such matters as the associations deem appropriate, including the location of the facility, responsibility for management of the facility, and the allocation of prize moneys and expenses between the associations.

SECTION 12. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Each electronic gaming device operator license issued by the Lottery Corporation to an eligible association shall be subject to the following qualifications and limitations:

(a) Electronic gaming devices shall be located only on the premises of a racetrack owned and/or leased and operated by an eligible association.

(b) Except as described in paragraph (c) of this subsection, any eligible association which desires to operate electronic gaming devices shall during each year make application to the Racing Commission for and receive no less than one hundred percent (100%) of the number of racing days awarded to the racetrack in 2001 and one hundred percent (100%) of the number of races scheduled to be run by the racetrack in 2001.

(c) Any eligible association may apply for and/or receive less than one hundred percent (100%) of the number of racing days awarded to the racetrack in 2001 or one hundred percent (100%) of the number of races scheduled

to be run by the racetrack in 2001, only if written approval is obtained from the Kentucky Division of the Horsemen's Benevolent and Protective Association and the Kentucky Thoroughbred Owners and Breeders Association, Inc., or their successors, for thoroughbred races, and the Kentucky Harness Horsemen's Association, or its successor, for standardbred racing. If racing days for an eligible association are reduced under this paragraph, those racing days so reduced shall be awarded by the Racing Commission to another eligible association in order to ensure that there will be no net reduction of racing days in the Commonwealth of Kentucky.

(2) An electronic gaming device operator license shall be valid for a period of four (4) years, unless revoked prior to its expiration by the Lottery Corporation.

(3) An application for an electronic gaming device operator license may be denied, or an electronic gaming device operator license issued to a licensee may be revoked or not renewed, only for the following causes:

(a) The applicant does not meet or the licensee has ceased to meet the requirements for issuance of an electronic gaming device operator license;

(b) The licensee has committed fraud in securing an electronic gaming device operator license;

(c) The applicant or the licensee has made a material misrepresentation of fact on an application for an electronic gaming device operator license or license renewal;

(d) The license to conduct horse racing issued under KRS Chapter 230 has been suspended, revoked, or denied, in which case the electronic gaming device operator license shall be denied, revoked, or not renewed;

(e) Gaming income generated through the operation of electronic gaming devices has not been remitted to the Lottery Corporation in accordance with Section 14 of this Act;

(f) The licensee has tampered with an electronic gaming device game or electronic gaming device by any means, including the use of an electronic, electrical, or mechanical device, which is designed, constructed, or programmed specifically for use in obtaining an advantage at playing any electronic gaming device game; or

(g) The licensee has engaged in an activity which is a violation of a provision of this chapter or an administrative regulation promulgated under this chapter, the nature of which would render the licensee unsuitable to continue to operate as a licensed electronic gaming device operator.

(4) An electronic gaming device operator license shall not be transferred without the prior approval of the Lottery Corporation. Any transferee of an electronic gaming device operator license shall meet the eligibility requirements for licensure under this chapter. Any one transaction or series of transactions in any twelve (12) month period which results in a change of control of the electronic gaming device operator shall be deemed a transfer, and shall require the purchasing person or entity to file with the Lottery Corporation such suitability applications as are required by the Lottery Corporation. If all such applications have been filed and the Lottery Corporation does not object to the transfer within thirty (30) days the transfer may be consummated, subject to the right of the Lottery Corporation to order the purchasing person or entity to divest its interest on terms prescribed by the Lottery Corporation, if the purchasing person or entity is found not suitable after investigation and a hearing. Any order of divestment shall contain terms that will protect the ongoing operations of the electronic gaming device operator.

(5) The total number of electronic gaming device operator licenses issued at any one time by the Lottery Corporation shall not exceed eight (8). Only one (1) license shall be issued to a licensed racetrack; provided, if any eligible association owns and operates more than one (1) licensed racetrack, the eligible association may apply for and be issued a license for each of these racetracks.

SECTION 13. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Electronic gaming devices may be purchased, leased, or otherwise acquired only by an electronic gaming device operator and shall be obtained only from electronic gaming device manufacturers or electronic gaming device distributors licensed by the Lottery Corporation.

(2) Each electronic gaming device operator shall be responsible for the following:

(a) Installation and maintenance of the electronic gaming devices and associated equipment which it operates, including the cost of any necessary capital improvements;

(b) The security and safekeeping of the electronic gaming devices and associated equipment which it operates;

(c) Coordination of its electronic gaming devices and associated equipment with the Lottery Corporation's central computer system;

(d) Incorporation of multifunction electronic gaming devices and associated equipment which are able to conduct both electronic gaming device games and pari-mutuel wagering on horse racing;

(e) The hiring of adequate personnel to ensure compliance with the provisions of this chapter relating to the operation of electronic gaming devices, including sufficient security personnel to protect and secure electronic gaming devices and monitor access to the area where the electronic gaming devices are located;

(f) Reporting promptly to the electronic gaming device manufacturer and the Lottery Corporation all electronic gaming device malfunctions and notifying the Lottery Corporation of the failure of an electronic gaming device

manufacturer or service technician to provide prompt service and repair of malfunctioning electronic gaming devices and associated equipment;

(g) Providing adequate training for all personnel who interact with patrons in electronic gaming device areas to report suspected pathological gamers to supervisors. The training, at a minimum, shall consist of information concerning the nature and symptoms of pathological gaming behavior, the causes and known risks of such behavior, and assisting patrons in obtaining information about pathological gaming and available options for seeking assistance for such behavior; provided, nothing in this section shall require an electronic gaming device operator, the Lottery Corporation, the Racing Commission, or their employees or agents to identify persons with problem or compulsive gaming problems which is an activity that requires medical and clinical expertise; and provided further, neither the state, the Lottery Corporation, the Racing Commission, an electronic gaming device operator, or their agents or employees shall be liable to any person as a result of implementing the provisions in this section, any related regulations, or any other responsible gaming programs required by or on behalf of the state, the Lottery Corporation, the Racing Commission, an electronic gaming device operator, or their agents or employees;

(h) Adopting procedures for distributing or posting within the facility information that promotes public awareness about underage, problem gaming and provides information on available services and resources;

(i) Remitting to the Lottery Corporation gaming income in accordance with Section 14 of this Act; and

(j) Operating electronic gaming devices in conformity with the provisions of this chapter and all administrative regulations promulgated under this chapter.

(3) Each electronic gaming device operator shall determine the following pertaining to the electronic gaming devices located on its premises:

(a) Number of electronic gaming devices;

(b) Dates and hours during which the electronic gaming devices are available for play. Electronic gaming devices may be operated on the premises of an electronic gaming device operator even when the racetrack is not conducting pari-mutuel wagering on races;

(c) Mix of games available for play on the electronic gaming devices, including progressive games;

(d) Utilization of coins, currency, tokens, vouchers, electronic credits, or scrip;

(e) Location and movement of electronic gaming devices on the premises;

(f) Staffing of electronic gaming device operations on the premises;

(g) The minimum and maximum betting amounts; and

(h) The payout based upon a suitable range as determined by the electronic gaming device operator, with a minimum of eighty percent (80%) and a maximum of ninety-seven percent (97%).

(4) Each electronic gaming device operator shall provide to the Lottery Corporation and the Racing Commission access to all records of the licensee and the physical premises where the electronic gaming device operator's electronic gaming device activities occur for the purpose of monitoring or inspecting the electronic gaming device operator's activities and the electronic gaming devices and associated equipment.

SECTION 14. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The portion of the annual gaming income for each calendar year of each electronic gaming device operator specified in paragraph (a) of this subsection shall be paid to the Lottery Corporation as specified in paragraph (b) of this subsection, and shall be allocated and distributed by the Lottery Corporation as specified in subsection (1)(c) to (f) of this section.

(a) A percentage of the annual gaming income shall be paid to the Lottery Corporation, based on the following range:

1. Twenty-eight percent (28%) of the annual gaming income not exceeding fifty million dollars ($50,000,000);

2. Thirty-six and forty-four one-hundredths percent (36.44%) of the annual gaming income exceeding fifty million dollars ($50,000,000) but not exceeding one hundred million dollars ($100,000,000);

3. Thirty-nine and forty-four one-hundredths percent (39.44%) of the annual gaming income exceeding one hundred million dollars ($100,000,000) but not exceeding one hundred fifty million dollars ($150,000,000);

4. Forty and forty-four one-hundredths percent (40.44%) of the annual gaming income exceeding one hundred fifty million dollars ($150,000,000) but not exceeding two hundred million dollars ($200,000,000); and

5. Forty-one and forty-four one-hundredths percent (41.44%) of the annual gaming income exceeding two hundred million dollars ($200,000,000).

(b) On or before the third business day of each week, each electronic gaming device operator shall pay to the

Lottery Corporation a percentage of the gaming income collected by the electronic gaming device operator during the preceding week, such percentage to be determined as specified in paragraph (a) of this subsection by reference to the cumulative amount of gaming income collected by the electronic gaming device operator during the current calendar year, through the last day of that preceding week.

(c) The funds described in paragraph (a) of this subsection shall be applied first to the administrative costs and expenses of the Lottery Corporation relating to electronic gaming device games including, but not limited to, administrative expenses and payroll and other employment costs attributable to the regulation of electronic gaming device games by the Lottery Corporation, and expenses attributable to operation of the central computer system. Twenty-four (24) months after the implementation of the operation of electronic gaming devices authorized under this chapter, the administrative costs and expenses of the Lottery Corporation shall not exceed four percent (4%) of the total gaming income for each fiscal year thereafter. Implementation shall be deemed to have commenced when one (1) electronic gaming device licensee allows the play of electronic gaming devices on its premises.

(d) After payment of the costs and expenses described in paragraph (c) of this subsection, an amount equal to twenty-five one-hundredths of one percent (0.25%) of the annual gaming income shall be dedicated for local economic development and shall be distributed by the Lottery Corporation as follows:

1. If the electronic gaming device operator is located in an incorporated area, fifty percent (50%) shall be distributed to the governing body of the city in which the racetrack is located, and fifty percent (50%) to the governing body of the county in which the racetrack is located.

2. If the electronic gaming device operator is located in an unincorporated area, fifty percent (50%) shall be distributed to the governing body of the largest city in the county in which the racetrack is located, and fifty percent (50%) to the governing body of the county in which the racetrack is located.

3. Notwithstanding subparagraphs 1. and 2. of this paragraph, if the electronic gaming device operator is located within a county that has adopted the urban-county form of government as provided in KRS Chapter 67A, one hundred percent (100%) shall be distributed to the governing body of the urban-county government, and if the electronic gaming device operator is located within a county containing a consolidated local government as provided in KRS Chapter 67C, one hundred percent (100%) shall be distributed to the governing body of the consolidated local government.

(e) After payment of the costs and expenses described in paragraph (c) of this subsection, an amount equal to five one-hundredths of one percent (0.05%) of the annual gaming income shall be deposited by the Lottery Corporation in a trust and revolving fund, to be known as the problem gambling fund. This fund shall be administered by the Problem Gambling Fund Committee. The Problem Gambling Fund Committee shall be composed of not less than four (4) members, with one-half (1/2) of the members appointed by the Kentucky Council on Problem Gambling, or its successor, and one-half (1/2) of the members appointed by the Lottery Corporation. Funds deposited in the problem gambling fund shall be made available by the committee to fund the development and operation of problem gambling education, prevention, and treatment programs. The committee shall strive to allocate funds as they are generated so that, after an appropriate needs assessment, all available funds are allocated on a current basis.

(f) All funds described in paragraph (a) of this subsection that are not applied or distributed by the Lottery Corporation as provided in paragraphs (c) to (e) of this subsection shall be paid by the Lottery Corporation into the general fund of the Commonwealth of Kentucky. The funds described in this paragraph shall be appropriated from the general fund as follows:

1. All of the funds in fiscal year 2002-2003 shall be appropriated to the Department of Education for distribution through the fund to Support Education Excellence in Kentucky (SEEK), to increase the SEEK formula, to restore funding to the Kentucky Education Reform Act strands and continuing general fund grant programs administered by the Department of Education in support of program needs of local school districts, and for teacher compensation.

2. In each fiscal year thereafter, the funds shall be appropriated as follows:

a. Seven percent (7%) for a prescription drug program for senior citizens; and

b. Seven percent (7%) for health and human services including, but not limited to, mental illness and substance abuse services; and

c. Six percent (6%) for environmental cleanup and enhancement programs including, but not limited to, solid waste and landfill closure and cleanup directed by the Natural Resources and Environmental Protection Cabinet, and to environmental programs directed by the Department of Fish and Wildlife Resources; and

d. Forty percent (40%) to support the Kentucky Education Reform Act and general education purposes; and

e. Twenty-five percent (25%) for capital construction including, but not limited to, debt service to support community development projects, public infrastructure, elementary and secondary *education construction projects through the School Facilities Construction Commission, and postsecondary education construction projects; and*

f. Fifteen percent (15%) for replenishment of the budget reserve trust fund until the budget reserve trust fund equals five percent (5%) of general fund annual revenues. Amounts not necessary to achieve the five percent (5%) level of the budget reserve trust fund shall be appropriated for basic state services supported by the general fund.

(2) The portion of the annual gaming income for each calendar year of each electronic gaming device operator specified in paragraph (a) of this subsection shall be allocated and distributed by the electronic gaming device operator solely for the purposes described in paragraphs (b) to (g) of this subsection.

(a) The portion of the gaming income to be so allocated and distributed by the electronic gaming device operator shall be a percentage of the annual gaming income, based upon the following range:

1. Ten percent (10%) of the annual gaming income not exceeding fifty million dollars ($50,000,000);

2. Eleven and seventy-eight one-hundredths percent (11.78%) of the annual gaming income exceeding fifty million dollars ($50,000,000) but not exceeding one hundred million dollars ($100,000,000);

3. Fourteen and twenty-eight one-hundredths percent (14.28%) of the annual gaming income exceeding one hundred million dollars ($100,000,000) but not exceeding one hundred fifty million dollars ($150,000,000);

4. Fourteen and seventy-eight one-hundredths percent (14.78%) of the annual gaming income exceeding one hundred fifty million dollars ($150,000,000) but not exceeding two hundred million dollars ($200,000,000); and

5. Fifteen and twenty-eight one-hundredths percent (15.28%) of the annual gaming income exceeding two hundred million dollars ($200,000,000).

(b) From the funds described in paragraph (a) of this subsection, each electronic gaming device operator which conducts thoroughbred racing shall retain an amount equal to fifty percent (50%) of these funds. On or before the third business day of each week, this retained amount shall be paid and applied as set forth in paragraph (e) of this subsection.

(c) From the funds described in paragraph (a) of this subsection, on or before the third business day of each week, each electronic gaming device operator which conducts standardbred racing shall deposit an amount equal to twenty percent (20%) of these funds to a subaccount of the purse fund of the electronic gaming device operator to be used to supplement standardbred races designated for horses that were sired by standardbred stallions domiciled in Kentucky, and shall further deposit an amount equal to five percent (5%) of these funds to a subaccount of the purse fund of the electronic gaming device operator to be used to supplement standardbred races designated for horse racing at county fair programs in Kentucky.

(d) From the funds described in paragraph (a) of this subsection, on or before the third business day of each week, each electronic gaming device operator which conducts thoroughbred racing shall allocate and distribute, as specified in this paragraph, an amount equal to fifty percent (50%) of those funds. The electronic gaming device operator shall pay or retain, to each eligible association (including the electronic gaming device operator) which conducted a live thoroughbred race meeting at any time during the immediately preceding calendar year an amount equal to that portion of the amount described in this paragraph that corresponds to the ratio of the total association purses paid by the eligible association in the immediately preceding calendar year (not including any portion of these purses paid from funds received under this paragraph and paragraph (b) of this subsection) compared to the total association purses paid in the immediately preceding calendar year by all eligible associations conducting thoroughbred race meetings in the immediately preceding calendar year (not including any portion of these purses paid from funds received under this paragraph and paragraph (b) of this subsection). Notwithstanding the foregoing, eligible associations which are parties to an agreement entered into pursuant to subsection (7) of Section 11 of this Act may agree to allocate among themselves amounts received by them under this paragraph.

(e) The funds retained or received by an electronic gaming device operator under paragraph (b) and paragraph (d) of this subsection shall be allocated by the electronic gaming device operator as follows:

1. A percentage of the funds, not less than ten percent (10%) but not to exceed forty percent (40%), as authorized by the Racing Commission after the advice and assistance of the Kentucky Thoroughbred Development Fund Advisory Committee established pursuant to KRS 230.400, shall be paid as Kentucky thoroughbred development fund purse supplements;

2. A percentage of the funds, not less than ten percent (10%) but not to exceed twenty percent (20%), as authorized by the Racing Commission after the advice and assistance of the Kentucky Thoroughbred Development Fund Advisory Committee, shall be paid as Kentucky thoroughbred claiming fund purse supplements;

3. The remaining amount of these funds shall be allocated to the purse money paid at race meetings conducted by the electronic gaming device operator.

(f) From the funds described in paragraph (a) of this subsection, and after subtraction of the amount applied pursuant to paragraph (c) of this subsection, on or before the third business day of each week, each electronic gaming device operator which conducts standardbred racing shall deposit the balance of these funds to the purse fund of the electronic gaming device operator to be used exclusively to supplement purse money paid at race meetings conducted by the electronic gaming device operator. Unless otherwise provided in an agreement entered into pursuant to subsection (7) of Section 11 of this Act, if the funds to be so applied to purses exceed an average of one hundred fifty thousand dollars ($150,000) per day of live racing, then the electronic gaming device operator shall cooperate with the Harness Horsemen's Association in making application to the Racing Commission for additional live racing dates for the following year; or the electronic gaming device operator may assign a portion of these funds, not to exceed thirty percent (30%), to another licensed standardbred track which was licensed by the Racing Commission to conduct standardbred racing prior to January 1, 2001, and is conducting electronic gaming device gaming, to support the purse fund of that track; or by agreement with the Kentucky Harness Horsemen's Association, the electronic gaming device operator may increase the funds to be so applied above one hundred fifty thousand dollars ($150,000) per day.

(g) The funds allocated and distributed under paragraphs (c) and (f) of this subsection shall be applied only to standardbred racing purses, regardless of the breed of racing conducted at a facility licensed to conduct standardbred racing.

(3) The portion of the gaming income of each electronic gaming device operator not paid to the Lottery Corporation as provided in subsection (1) of this section and not allocated and distributed by the electronic gaming device operator as provided in subsection (2) of this section shall be retained by the electronic gaming device operator, which shall allocate and distribute the funds as specified in paragraphs (b) to (d) of this subsection.

(a) The amounts of annual gaming income for each calendar year of each electronic gaming device operator to be allocated and distributed pursuant to this subsection are calculated as follows:

1. Sixty-two percent (62%) of the annual gaming income not exceeding fifty million dollars ($50,000,000);

2. Fifty-one and seventy-eight one-hundredths percent (51.78%) of the annual gaming income exceeding fifty million dollars ($50,000,000) but not exceeding one hundred million dollars ($100,000,000);

3. Forty-six and twenty-eight one-hundredths percent (46.28%) of the annual gaming income exceeding one hundred million dollars ($100,000,000) but not exceeding one hundred fifty million dollars ($150,000,000);

4. Forty-four and seventy-eight one-hundredths percent (44.78%) of the annual gaming income exceeding one hundred fifty million dollars ($150,000,000) but not exceeding two hundred million dollars ($200,000,000); and

5. Forty-three and twenty-eight one-hundredths percent (43.28%) of the annual gaming income exceeding two hundred million dollars ($200,000,000).

(b) An amount equal to twenty-five hundredths of one percent (0.25%) of annual gaming income shall be spent by the electronic gaming device operator for capital improvements to its backside racing facilities. On or before February 1 of each year, the electronic gaming device operator shall provide a written statement to the Racing Commission, certified by an officer of the electronic gaming device operator, providing an accounting of the funds expended under this paragraph. The Racing Commission may promulgate administrative regulations concerning the expenditure of those funds, including any carryover to future periods, and may take into account any failure to comply with this subsection in any licensing determination made by the Racing Commission. As used in this paragraph, "capital improvement" means any addition, replacement, or remodeling of a structural unit of the backside of a racetrack, as defined in KRS 230.218, including but not limited to the construction of barns used for the racetrack, backstretch facilities for horsemen, paddock facilities, the installation of permanent new heating or air conditioning, and installations of a permanent nature forming a part of the backside of the track.

(c) An amount equal to one-tenth of one percent (0.1%) of annual gaming income shall be paid by the electronic gaming device operator to the horsemen's groups representing the horsemen of the electronic gaming device operator's racetrack, as follows:

1. In the case of electronic gaming device operators which conduct thoroughbred racing, fifty percent (50%) to the Kentucky Division of the Horsemen's Benevolent and Protective Association, or its successor, and fifty percent (50%) to the Kentucky Thoroughbred Owners and Breeders Association, or its successor; and

2. In the case of electronic gaming device operators which conduct standardbred racing, to the Kentucky Harness Horsemen's Association.

(d) All funds described in this subsection that are not allocated or distributed as provided in paragraphs (b) or (c) of this subsection shall be applied first to the operating expenses incurred by the electronic gaming device operator, including but not limited to costs of payroll, equipment purchase or lease, supplies, advertising and promotions, training of employees, uniforms, utilities, insurance, depreciation, and other reasonable expenses

of operating electronic gaming devices, and second to any other lawful costs, expenditures, and expenses of the racetrack in Kentucky.

(4) On or before the third business day of each week, each electronic gaming device operator shall provide a written statement to the Lottery Corporation and to the Racing Commission, certified by an officer of the electronic gaming device operator, providing an accounting of the funds paid, allocated, and distributed under subsections (1)(b), (2)(b), (2)(c), (2)(d), (2)(e), and (2)(f) of this section.

(5) For purposes of subsections (1), (2), and (3) of this section, each of the associations jointly licensed to operate an electronic gaming device facility pursuant to this chapter shall be treated as an individual electronic gaming device operator having annual gaming income equal to the total annual gaming income for the jointly licensed facility divided by the number of associations jointly licensed to operate the facility. The jointly licensed facility may file a single statement for the joint facility in compliance with subsection (4) of this section provided that the payments, allocations, and distributions applicable to each association are reflected separately in the statement.

(6) This chapter hereby establishes a trust and revolving fund for the Racing Commission, designated as the Kentucky thoroughbred claiming fund, consisting of money allocated to the fund under the provisions of this chapter. Money to the credit of the Kentucky thoroughbred claiming fund shall be distributed by the State Treasurer for the purposes of this chapter upon authorization of the Racing Commission and upon approval of the secretary of the Finance and Administration Cabinet. Money to the credit of the Kentucky thoroughbred claiming fund at the end of each fiscal year shall not lapse, but shall be carried forward in this fund to the succeeding fiscal year. The Kentucky thoroughbred claiming fund shall be governed by the same administrative rules and regulations as apply to the Kentucky thoroughbred development fund, as may be supplemented by the Racing Commission.

SECTION 15. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Each electronic gaming device operator shall file with the Lottery Corporation a report of each change in its officers, directors, and any other senior management employee of the electronic gaming device operator required to be licensed pursuant to the chapter. The Lottery Corporation shall have thirty (30) days within which to approve or disapprove such a change. During this thirty (30) day period and thereafter if the Lottery Corporation does not disapprove the change, the officer or director or other person required to be so licensed shall be entitled to exercise any powers of the office or position to which he or she was so elected or appointed.

(2) The Lottery Corporation may require that each electronic gaming device operator furnish the Lottery Corporation with a copy of its federal income tax return within thirty (30) days after the return is filed with the Internal Revenue Service, and if this tax return is provided the Lottery Corporation shall keep the tax return confidential.

(3) Each electronic gaming device operator shall adopt an internal control system which shall include but not be limited to provisions for:

(a) The safeguarding of its assets and revenues relating to electronic gaming device games, especially the recording of cash and evidences of indebtedness; and

(b) The maintenance of reliable accounts and records of transactions, operations, and events relating to electronic gaming device games.

(4) The internal control system shall be designed to reasonably ensure that:

(a) Assets relating to the operation of electronic gaming devices are safeguarded;

(b) Financial records relating to the operation of electronic gaming devices are accurate and reliable;

(c) Transactions relating to the operation of electronic gaming devices are performed only in accordance with management's general or specific authorization;

(d) Transactions relating to the operation of electronic gaming devices are recorded adequately to permit proper reporting of gaming income and of fees and taxes, and to maintain accountability for assets;

(e) Access to assets relating to the operation of electronic gaming devices is permitted only in accordance with management's specific authorization;

(f) Recorded accountability for assets relating to the operation of electronic gaming devices is compared with actual assets at reasonable intervals and appropriate action is taken with respect to any discrepancies; and

(g) Functions, duties, and responsibilities relating to the operation of electronic gaming devices are appropriately segregated and performed in accordance with sound practices by competent, qualified personnel.

(5) An audit of the books and records of each electronic gaming device operator relating to the operation of electronic gaming devices shall be performed by an independent, certified public accountant who meets the qualifications to do business within the Commonwealth of Kentucky at the close of each electronic gaming device operator's fiscal year. The audit shall be conducted in accordance with generally accepted accounting procedures, shall be paid for by the electronic gaming device operator, and shall be completed within ninety (90) days after the close of the fiscal year. A copy of the audit report shall be submitted by the electronic gaming device operator to the Lottery Corporation and the Racing Commission within ten (10) days after receipt of the report from the accountant.

SECTION 16. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) A person shall not be employed as an electronic gaming device employee unless the person holds a valid license issued by the Lottery Corporation in accordance with this chapter and administrative regulations adopted by the Lottery Corporation. An electronic gaming device employee shall also be licensed by the Racing Commission. The Lottery Corporation and the Racing Commission shall be authorized to issue temporary licenses in connection with efforts to facilitate the initiation of electronic gaming device games at the earliest feasible time as provided in Section 10 of this Act. The Lottery Corporation and the Racing Commission shall cooperate with a view to creating a single licensing procedure for electronic gaming device employees. If this single license is adopted, the Racing Commission shall issue the license and shall have sole control and authority over the license as well as the ability to establish a fee for the single license.

(2) An electronic gaming device manufacturer shall not sell, lease, or otherwise transfer any electronic gaming device in this state unless the manufacturer holds a valid license issued by the Lottery Corporation in accordance with this chapter and regulations adopted by the Lottery Corporation.

(3) The Lottery Corporation may require the licensing of any person who furnishes services or property to an electronic gaming device operator under any arrangement under which the person receives payments based on earnings, profits, or receipts from electronic gaming device games. The Lottery Corporation may require any such person to comply with the requirements of this chapter and with the administrative regulations of the Lottery Corporation. If the Lottery Corporation determines that any such person is unsuitable, it may require the arrangement to be terminated without liability on the part of an electronic gaming device operator, its agents, or employees.

(4) All electronic gaming device operators and electronic gaming device manufacturers shall:

(a) Promptly report to the Lottery Corporation any facts or circumstances related to the operation of electronic gaming devices which constitute a violation of state or federal law;

(b) Conduct all electronic gaming device activities and operations in a manner that does not pose a threat to the public health, safety, or welfare of the citizens of this state, and which does not adversely affect the security and integrity of electronic gaming device games;

(c) Hold the Lottery Corporation, the Racing Commission and this state harmless from and defend and pay for the defense of any and all claims which may be asserted against such electronic gaming device operator, electronic gaming device manufacturer, the Lottery Corporation, the Racing Commission, the state or the employees thereof, arising from the licensee's participation in the electronic gaming device gaming activities authorized by this chapter;

(d) Assist the Lottery Corporation in maximizing electronic gaming device revenues; and

(e) Maintain all records required by the Lottery Corporation and the Racing Commission.

(5) All electronic gaming device manufacturers shall:

(a) Manufacture electronic gaming devices and associated equipment for placement in this state in accordance with the requirements specified in administrative regulations adopted by the Lottery Corporation;

(b) Manufacture electronic gaming devices and associated equipment to ensure timely delivery to electronic gaming device operators;

(c) Maintain and provide an inventory of spare parts to assure the timely repair and continuous operation of electronic gaming devices placed and intended for placement in this state;

(d) Provide to electronic gaming device operators and service technicians technical assistance and training in the service and repair of electronic gaming devices and associated equipment to ensure the continued, authorized operation of electronic gaming devices; and

(e) Obtain certification of compliance under the applicable regulations of the Federal Communications Commission for all electronic gaming devices placed in this state.

(6) All service technicians shall:

(a) Maintain all skills necessary for the timely repair and service of electronic gaming devices and associated equipment to ensure the continued, approved operation of electronic gaming devices;

(b) Attend all meetings, seminars, and training sessions mandated by the Lottery Corporation involving the repair and maintenance of electronic gaming devices and associated equipment; and

(c) Promptly notify the Lottery Corporation of any electronic or mechanical electronic gaming device malfunctions.

(7) All validation managers shall:

(a) Maintain all skills necessary for the accurate validation and handling of coins at processing stations;

(b) Attend all meetings, seminars, and training sessions mandated by the Lottery Corporation involving the validation and redemption of electronic gaming device winnings; and

(c) Supervise the handling of coins at processing stations.

(8) All floor attendants shall:

(a) Provide change and assistance to persons playing electronic gaming device games on the premises of a licensed electronic gaming device operator; and

(b) Open electronic gaming device access doors to clear bill jams.

(9) All security personnel shall:

(a) Maintain all skills necessary to ensure the security and integrity of all electronic gaming devices and of all electronic games;

(b) Attend all meetings, seminars, and training sessions mandated by the Lottery Corporation involving the security and integrity of electronic gaming devices and games; and

(c) Promptly notify the Lottery Corporation of any security violation.

SECTION 17. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) No person younger than twenty-one (21) years of age shall:

(a) Play, be allowed to play, place wagers, or collect winnings, whether personally or through an agent, from any electronic gaming devices authorized under this chapter; or

(b) Be employed as an electronic gaming device employee; or

(c) Loiter in areas where electronic gaming devices are located.

(2) Electronic gaming device operators shall take affirmative steps to ensure that minors will not have access to electronic gaming devices.

SECTION 18. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

KRS 12.100 or any other provision of law to the contrary notwithstanding, in the event of a disagreement between the Lottery Corporation and the Racing Commission with regard to their respective duties or responsibilities in carrying out the purposes of this chapter, the disagreement shall be resolved by the secretary of the Governor's Executive Cabinet in a manner consistent with the provisions of this chapter.

SECTION 19. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly, in accordance with and in compliance with the provisions of Section 2 of the Act of Congress codified at 15 U.S.C. secs. 1171 to 1177, hereby declares and proclaims that Section 2 of that Act of Congress shall not apply to any gambling device in this state where the transportation of this device is specifically authorized by and done in compliance with the provisions of this chapter, any other applicable statute of this state, and any regulations adopted pursuant thereto, and that any such gambling device transported in compliance with state law and regulations shall be exempt from the provisions of that Act of Congress.

(2) All shipments into this state of electronic gaming devices, the registering, recording, and labeling of which has been duly made by the manufacturer or dealer in accordance with Sections 3 and 4 of that Act of Congress codified at 15 U.S.C. secs. 1173 to 1174 shall be deemed legal shipments into this state.

SECTION 20. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Any person who influences or attempts to influence the winning of a prize through the use of coercion, fraud, deception, or tampering with an electronic gaming device or any electronic gaming device associated equipment shall be guilty of a Class B felony.

(2) Any person who knowingly provides false or intentionally misleading information to the Lottery Corporation or the Racing Commission in connection with an application for any license relating to electronic gaming devices pursuant to this chapter shall be fined not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), and shall be guilty of a Class D felony.

(3) Unless the Lottery Corporation shall have promulgated administrative regulations governing its procurements under this chapter or KRS Chapter 154A, the provisions of KRS 45A.990(1) to (8) shall be deemed to apply to procurement activities conducted under this chapter which are governed by KRS Chapter 45A. If the Lottery Corporation has promulgated administrative regulations governing its procurements, any person who willfully violates the administrative regulations shall be guilty of a Class A misdemeanor.

(4) Any person who knowingly allows a person under twenty-one (21) years of age to enter an age-restricted area containing electronic gaming devices shall be guilty of a violation for the first offense and for each subsequent offense shall be guilty of a Class B misdemeanor. In any prosecution for a violation of the provisions of this section, it shall be a defense that the person charged with the violation had a reasonable and good faith basis to believe that the person was at least twenty-one (21) years of age.

(5) Any person who, while an electronic gaming device game is being played at a licensed electronic gaming device operator, uses, or assists another in the use of, an electronic, electrical, or mechanical device which is designed, constructed, or programmed specifically for use in obtaining an advantage at playing any electronic gaming device game shall be guilty of a Class B felony.

(6) Any licensed electronic gaming device operator who knowingly places an electronic gaming device into play without authority of the Lottery Corporation to do so shall be guilty of a violation for the first offense and for each subsequent

offense shall be guilty of a Class B misdemeanor.

(7) Any person who operates, carries on, or exposes for play an electronic gaming device after the person's license as an electronic gaming device operator has expired and prior to the actual renewal thereof shall be guilty of a Class B misdemeanor.

(8) Any licensed electronic gaming device operator who possesses any electronic gaming device which the licensee knows has been manufactured, distributed, sold, tampered with, or serviced in violation of the provisions of this chapter or administrative regulations promulgated under this chapter shall be guilty of a Class B misdemeanor.

(9) If an agent of the Lottery Corporation, an electronic gaming device operator or an electronic gaming device operations manager, or any employee or agent thereof, suspects a person of violating any provisions of this chapter or any other criminal laws of the state at a facility at which electronic gaming devices are operated, the person suspected of these violations may be detained at the facility by any such agent or employee until law enforcement officials arrive and take custody of the person, or may be ejected from the facility by any such agent or employee. Neither the Lottery Corporation, the Commonwealth of Kentucky, an electronic gaming device operator or an electronic gaming device operations manager, or their agents or employees, shall be liable for any damages for any such detention or ejection or activity in connection therewith regardless of whether the person so detained or ejected, in fact, committed an offense.

SECTION 21. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Any electronic gaming device operator with nonsupervisory employees whose work is directly related to pari-mutuel terminal operations, or to money room functions associated with pari-mutuel gaming, if such work is covered under the terms of a collective bargaining agreement, shall staff nonsupervisory positions directly related to electronic gaming using such employees, if:

  (a) A collective bargaining agreement is in place at the time that the electronic gaming device operator is licensed;

  (b) The employees are otherwise qualified to meet the licensing requirements of this chapter; and

  (c) The employees also meet additional criteria specified by administrative regulations promulgated under this chapter.

(2) The job classifications, job duties, wage rates and benefits of such nonsupervisory positions directly related to electronic gaming may be established by agreement of the parties to the collective bargaining agreement through collective bargaining, or, in the absence of such an agreement, as may be established by the electronic gaming device operator.

Section 22. KRS 137.190 is amended to read as follows:

The~~[license tax imposed by KRS 137.170, the]~~ admission tax imposed by KRS 138.480, ~~[and]~~the state taxes and contributions imposed by KRS 138.510 to 138.550 and KRS 230.380 on pari-mutuel systems of betting***, and the amounts paid to the Kentucky Lottery Corporation under Section 14 of this Act,*** shall be in lieu of all other license, excise, special, or franchise taxes to the state or any county, city, or other political subdivision. No county, city, or other political subdivision may levy any license, income, excise, special, or franchise tax on any such person or corporation engaged ***in the business of an electronic gaming device operator, or*** in the business of conducting a race track at which races are conducted for stakes, purses***,*** or prizes, or operating as a receiving track or simulcast facility, or on the operation or maintenance of any pari-mutuel machine***, electronic gaming device,*** or similar device, or on the money or amount of money handled by or through any pari-mutuel machine***, electronic gaming device,*** or similar device or on the sale of any merchandise during the conducting of races thereon by any such person***, Lottery Corporation,*** or corporation.

Section 23. KRS 138.480 is amended to read as follows:

Except for the conduct of harness racing at a county fair, each person entering the grounds or enclosure of any race track at which a live race meeting is being conducted under the jurisdiction of the Kentucky Racing Commission, for the purpose of attending the races or for any other purpose connected therewith, shall pay a tax of fifteen cents ($0.15) to the state, except as otherwise provided in this section. If tickets good for more than one (1) day are issued, the sum of fifteen cents ($0.15) shall be paid by each person using such ticket on each day that it is used. No admission tax shall be collected from any of the employees of the race track, or any of the owners or trainers of horses, or jockeys, or their employees. The admission tax provided for in this section shall be collected by the race track from each person on entering the race track or enclosure on a paid~~[or free]~~ admission***, but shall not be required to be collected from or paid with respect to any person on entering the race track or enclosure on a free admission***. The race track shall account to and pay to the state the money so collected.

Section 24. KRS 154A.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Amateur athletics" means any interscholastic athletics in which the participating athletes are elementary or secondary school students of any public or private institution of learning; any intercollegiate athletics in which the participating athletes are students of any public or private institution of higher education; or any athletics sponsored or regulated by the following amateur athletic associations including, but not limited to:

  (a) United States Olympic Committee;

  (b) National Collegiate Athletic Association;

(c) National Association of Intercollegiate Athletics;
(d) Kentucky High School Athletic Association;
(e) Kentucky Amateur Athletics Union;
(f) Bluegrass State Games;
(g) Little League Baseball;
(h) Amateur Softball Association;
(i) Babe Ruth Leagues of Kentucky;
(j) American Legion Baseball;
(k) Kentucky Youth Soccer Association; or
(l) Kentucky Special Olympics;

(2) "Corporation" means the Kentucky Lottery Corporation;

(3) "Lottery" means any game of chance approved by the corporation and operated pursuant to this chapter, except for games prohibited by the General Assembly as provided for in KRS 154A.063;

(4) ***"Lottery ticket" means a slip of paper, cardboard, or other material sold by the corporation through retailers for participation in lottery games, but does not include any vouchers or scrip used to play an electronic gaming device or any redemption ticket printed by an electronic gaming device as defined in KRS Chapter 230A.***

(5) "Major lottery-specific procurement" means any gaming product or service including, but not limited to, major advertising contracts, annuity contracts, prize payment agreements, consulting services, personal service contracts, equipment, tickets, and all other products and services unique to the operation of the corporation in its lottery activities, but not including materials, supplies, equipment, and services common to the ordinary operations of a corporation;

(6)[~~(5)~~] "President" means the president of the Kentucky Lottery Corporation who shall also serve as chief executive officer of the corporation;

(7)[~~(6)~~] (a) With respect to an individual, "related entity" means any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of the individual, and any entity with respect to which the individual, or spouse, child, brother, sister, or parent of the individual has a financial interest of five percent (5%) or more, or is an officer, director, employee, or partner; and

(b) With respect to any partnership, corporation, joint venture, or other entity, "related entity" means any officer, director, employee, partner, or owner of a financial interest of five percent (5%) or more of the total value thereof; any parent, subsidiary, or brother corporation; and any other entity with which the given entity has an identity of ownership of fifty percent (50%) or more.

(8)[~~(7)~~] "Retailer" means any person with whom the corporation has contracted to sell lottery tickets to the public;

(9)[~~(8)~~] "Security" means the protection of information that would provide an unfair advantage to any individual or other entity involved or seeking involvement in the operation of the lottery or the supply of major lottery-specific procurement items to the corporation, and the protection of:

(a) Information that relates to detection or deterrence of, or could assist in the perpetration of, crimes against the corporation or its retailers, their locations, or their employees; or

(b) Information which could impair or adversely impact the ability of the corporation or its retailers to protect the integrity of the lottery or protect lottery equipment, supplies, or proceeds;

(10)[~~(9)~~] "Sports contest" means any professional or amateur sport, athletic game or contest, or race or contest involving machines, persons, or animals, except horses, that is viewed by the public; and

(11)[~~(10)~~] "Vendor" means any person who has entered into a major lottery-specific procurement contract with the corporation.

Section 25. KRS 154A.030 is amended to read as follows:

(1) The affairs of the corporation shall be administered by a board of directors composed of eight (8) members. One (1) member of the board shall be the State Treasurer, who shall serve on the board in an ex officio capacity. The other seven (7) members shall be appointed by the Governor, subject to the advice and consent of the Senate. Members appointed when the Senate is not in session shall serve only until the next regular session, or special session if such matter is included in the call therefor of the General Assembly, at which time they shall be subject to confirmation by the Senate. If the Senate is not in session, the appointments shall be subject to review by the Interim Joint Committee on State Government which shall hold a public hearing and shall transmit its recommendations to the Senate. Should the Senate refuse to confirm a member then he shall forfeit his office as of the date on which the Senate refuses to confirm him. Any person not confirmed by the Senate shall not be reappointed as a member for a period of two (2) years. Members appointed by the Governor, and confirmed by the Senate, shall be residents of the Commonwealth of Kentucky and serve a term of four (4) years, except that of the initial members appointed, two (2) shall be appointed for one (1) year with the term ending on the twenty-eighth (28th) day of November, 1989; two (2) shall be appointed for two (2) years with the term

ending on the twenty-eighth (28th) day of November, 1990; two (2) shall be appointed for three (3) years with the term ending on the twenty-eighth (28th) day of November, 1991; and one (1) shall be appointed for four (4) years with the term ending on the twenty-eighth (28th) day of November, 1992. Members, confirmed by the Senate, may serve thirty (30) days beyond the end of their respective terms if their successors have not been appointed and qualified. If the Governor fails to appoint a successor within thirty (30) days of expiration of a member's term, the board shall make the appointment. No appointed member shall serve more than two (2) consecutive four-year terms. No more than four (4) of the members appointed by the Governor shall be from the same political party. Appointed members may be removed by the Governor for neglect of duty, misfeasance, or nonfeasance in office. The board shall annually elect a chairman from among its appointed members.

(2) (a) No member of the board of directors, by himself or through others, shall knowingly:

1. Use or attempt to use his influence in any manner which involves a substantial conflict between his personal or private interest and his duties to the corporation;

2. Use or attempt to use any means to influence the corporation in derogation of the corporation;

3. Use his official position or office to obtain financial gain for himself, or any spouse, parent, brother, sister, or child of the director; or

4. Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the interests of the corporation or of the Commonwealth.

(b) No director shall appear before the board or the corporation in any manner other than as a director.

(c) A director shall abstain from action on an official decision in which he has or may have a personal or private interest, and shall disclose the existence of that personal or private interest in writing to each other member of the board on the same day on which the director becomes aware that the interest exists or that an official decision may be under consideration by the board. This disclosure shall cause the decision on these matters to be made in a meeting of the members of the board who do not have the conflict from which meeting the director shall be absent and from all votes on which matters the director shall abstain.

(d) In determining whether to abstain from action on an official decision because of a possible conflict of interest, a director shall consider the following guidelines:

1. Whether a substantial threat to his independence of judgment has been created by his personal or private interest;

2. The effect of his participation on public confidence in the integrity of the corporation and the lottery;

3. Whether his participation is likely to have any significant effect on the disposition of the matter;

4. The need for his particular contribution, such as special knowledge of the subject matter, to the effective functioning of the corporation; and

5. Whether the official decision will affect him in a manner differently from the public, or will affect him as a member of a business, profession, occupation, or group to no greater extent generally than other members of his business, profession, occupation, or group.

Any director may request a vote of the disinterested members of the board on whether any director shall abstain from action on an official decision.

(e) No director, in order to further his own economic interests, or those of any person, shall knowingly disclose or use confidential information acquired in the course of his official duties.

(f) No director shall knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of lottery funds or funds to be raised through the lottery.

(g) No director shall knowingly accept compensation, other than that provided in this section for directors, for performance of his official duties.

(h) No present or former director shall, within one (1) year following termination of his membership on the board, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with the corporation in matters in which he was directly involved during his tenure. This provision shall not prohibit an individual from continuing in the same business, firm, occupation, or profession in which he was involved prior to becoming a director, provided that, for a period of one (1) year following termination of his position as a director, he personally refrains from working on any matter in which he was directly involved as a director.

(i) No director, and no spouse, child, brother, sister, or parent of that director shall have a financial interest of more than five percent (5%) of the total value of any vendor, other supplier of goods or services to the corporation, retailer, ***license holder under KRS Chapter 230A,*** or related entity. The corporation shall provide each member of the board with a list of all current vendors, which shall be updated on at least a quarterly basis.

(3) Appointed members of the board of directors shall be entitled to five thousand dollars ($5,000) per year as remuneration for serving on the board, except for the chairman, who shall receive seven thousand five hundred dollars ($7,500), and all

members shall be reimbursed for necessary travel and other reasonable expenses incurred in the performance of their official duties.

(4) The board, upon call of the chairman or the president, shall meet at least monthly for the first eighteen (18) months and bimonthly thereafter and at such other times as the chairman or the president may determine. Four (4) members of the board shall constitute a quorum. The board shall also meet upon call of three (3) or more of the voting members of the board. The board shall keep accurate and complete records of all its meetings.

(5) The State Treasurer shall not be compensated for his service on the board.

(6) The president of the corporation shall be appointed by the Governor subject to confirmation by the board of directors. Should the board of directors refuse to confirm the appointment of the president, then the Governor shall submit another name. The person whose appointment was refused shall not be renamed for confirmation for a period of two (2) years. The board of directors shall meet within thirty (30) days of the date the Governor submits the name of a nominee for president of the corporation and shall, within that time frame, either approve or reject the nomination. The president of the corporation shall manage the daily affairs of the corporation and shall have such powers and duties as specified by KRS 154A.070 and by the board of directors. The president shall not be a member of the board. The president of the corporation may be removed by the board of directors.

(7) All meetings of the board shall be open unless they may be closed under KRS 61.810***:*** or

(a) The meeting relate***s*** to trade secrets, legally-protectable intellectual property, confidential proprietary information, the security of the corporation in the operation of the lottery, or the security of the lottery's retailers***; or***

(b) The meeting relates to trade secrets, legally protectable intellectual property, confidential propriety information, finances, earnings, revenues, or security of applicants or license holders under KRS Chapter 230A.

Section 26. KRS 154A.040 is amended to read as follows:

(1) All records of the corporation shall be deemed open records and subject to public inspection, unless:

(a) The record is excluded from inspection under KRS 61.870 to 61.884 under KRS 61.878;

(b) The record involves***:***

1. A trade secret or other legally-protectable intellectual property or confidential proprietary information of the corporation or of a vendor***; or***

2. A trade secret or other legally protectable intellectual property or confidential proprietary information, finances, earnings or revenue of an applicant or the holder of any license granted under KRS Chapter 230A, in which case the portions of the meeting relating to these subjects may be closed; or

(c) The disclosure of the record could impair or adversely impact the security of the corporation in the operation of the lottery or the security of lottery retailers ***or could impair or adversely impact the security of applicants or license holders under KRS Chapter 230A.***

(2) The provisions of KRS 61.878, 61.880, and 61.884 shall apply to records of the lottery corporation with the exception that the only Circuit Court with jurisdiction over the records of the lottery corporation is the Circuit Court in the county where the corporate headquarters of the lottery corporation is located.

Section 27. KRS 154A.050 is amended to read as follows:

(1) The board of directors shall provide the president with private-sector perspectives on the operation of a large marketing enterprise. The board shall:

(a) Approve, disapprove, amend, or modify the budget recommended by the president for the operation of the corporation;

(b) Approve, disapprove, amend, or modify the terms of major lottery procurements recommended by the president;

(c) Serve as a board of appeal for any denial, revocation, or cancellation by the president of a contract with a lottery retailer ***or license holder under KRS Chapter 230A***; and

(d) Adopt, from time to time, administrative regulations which shall be subject to the provisions of KRS Chapter 13A, as may be necessary to carry out and implement its powers and duties, the operation of the corporation, the conduct of lottery games in general, and any other matters necessary or desirable for the efficient and effective operation of the lottery or convenience of the public. The board may adopt, without recourse to the administrative regulation process unless it so desires, rules for the conduct of specific lottery games, including but not limited to, rules ***applicable to lottery ticket games sold to the public through retailers*** specifying:

1. The types of games to be conducted;
2. The sale price of ***lottery*** tickets;
3. The number and amount of prizes;
4. The method and location of selecting or validating winning ***lottery*** tickets;
5. The frequency and the means of conducting drawings which shall be open to the public;
6. The manner of payment of prizes;

7. The frequency of games and drawings;

8. The manner and amount of compensation to lottery retailers, except all compensation shall be uniform; and

9. Any other matters necessary or desirable for the efficient and effective operation of the lottery or for the convenience of the public.

In addition to the rules authorized by paragraph (d) of this subsection, the board may adopt, without recourse to the administrative regulation process unless it so desires, rules applicable to the types of electronic gaming device games authorized under KRS Chapter 230A.

(2) In all other matters, the board shall advise and make recommendations. However, the board shall:

(a) Conduct hearings upon complaints charging violations of this chapter or of administrative regulations adopted by the corporation and shall conduct such other hearings as may be provided by administrative regulation;

(b) Review the performance of the corporation and:

1. Advise the president and make recommendations to him regarding operations of the corporation; and

2. Identify potential improvements in this chapter, the administrative regulations of the corporation, and the management of the corporation;

(c) Request from the corporation any information the board determines to be relevant to its duties; and

(d) Report to the president of the corporation, the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding its findings and recommendations.

Section 28. KRS 154A.060 is amended to read as follows:

(1) The corporation shall conduct and administer lottery games which will result in maximization of revenues to the Commonwealth of Kentucky while at the same time provide entertainment to its citizens. It shall be the duty of the corporation, its employees, and the members of the board to provide for the effective operation of lottery games which insure the integrity of the lottery and maintain the dignity of the Commonwealth and the general welfare of its citizens. The corporation, in pursuit of the attainment of the objectives and the purposes of this chapter, may:

(a) Sue and be sued in its corporate name;

(b) Adopt a corporate seal and a symbol;

(c) Hold copyrights, trademarks, and service marks, and enforce its rights with respect thereto;

(d) Appoint agents upon which process may be served;

(e) Enter into written agreements with one (1) or more other states for the operation, marketing, and promotion of a joint lottery or joint lottery games;

(f) Acquire real property and make improvements thereon. These acquisitions shall be reported to the Capital Projects and Bond Oversight Committee for its review and determination in accordance with KRS 45.750 to 45.810; and

(g) Make, execute, and effectuate any and all agreements or contracts including:

1. Contracts for the purchase of such goods and services as are necessary for the operation and promotion of the state lottery. Proposed purchases of major items of equipment ***by the corporation*** estimated to cost one hundred thousand dollars ($100,000) or more and proposed purchases of items of equipment where the estimated contract price for all the items of equipment ***by the corporation*** taken together is four hundred thousand dollars ($400,000) or more shall be reported to the Capital Projects and Bond Oversight Committee for its review and determination in accordance with the provisions of KRS 45.750 to 45.810. A contract shall not be artificially divided to cause an estimated contract price to fall below the four hundred thousand dollar ($400,000) threshold. Contracts for personal service shall be reviewed in accordance with KRS 45A.690 to 45A.725.

2. Contracts to incur debt in its own name and enter into financing agreements with the Commonwealth, its own agencies, or with a commercial bank, excluding the authority to issue bonds.

(2) The corporation shall:

(a) Supervise and administer the lottery in accordance with the provisions of this chapter and the administrative regulations adopted by the board;

(b) Submit monthly and annual reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing financial statements which include, but are not limited to, disclosure of gross revenues, expenses, and net proceeds for the period;

(c) Adopt by administrative regulation a system of continuous internal audits;

(d) Maintain weekly or more frequent records of lottery transactions, including distribution of tickets to lottery retailers, revenues received, claims for prizes, prizes paid, ***financial transactions relating to electronic gaming devices authorized under KRS Chapter 230A,*** and all other financial transactions of the corporation;

(e) Adopt by administrative regulation a code of ethics for officers and employees of the corporation to carry out the standards of conduct established by the provisions of this chapter;

(f) Include capital projects, as defined in KRS 45.750(1)(f), which exceed the thresholds set forth in KRS 154A.060(1)(g)1. in the budget unit request submitted by the corporation to the Finance and Administration Cabinet pursuant to KRS 48.050. In the budget unit request submitted by the corporation, a contingency item for acquisition of the on-line central system, all related equipment, and any other equipment owned by vendors of the corporation relating to computer-generated lottery games from the corporation's vendors shall be stated separately from all other equipment. Further, if the identification of specific projects requiring the acquisition of equipment in the nature of computer systems, communications equipment and related peripheral devices, and operating system software cannot be ascertained with absolute certainty at the time the corporation is required to submit its budget unit request, the corporation shall be entitled to submit a general request for the equipment without individually identifying specific projects, together with a maximum amount to be allocated for the equipment, in the budget unit request; and

(g) The Kentucky Lottery Corporation and the Cabinet for Families and Children shall develop a system to allow the Kentucky Lottery Corporation to receive a list of delinquent child support obligors from the Cabinet for Families and Children on a monthly basis. The Kentucky Lottery Corporation shall withhold delinquent amounts from prizes of ***lottery ticket*** winners that appear on the list. This system shall be timely and shall not create an unavoidable delay in the payment of a lottery ***ticket*** prize.

Section 29. KRS 154A.063 is amended to read as follows:

(1) The corporation shall not utilize amateur athletics for any purpose including, but not limited to, advertising, promoting, conducting a lottery, or as a basis for a lottery.

(2) ***Except as otherwise provided in subsection (4) of this section,*** the corporation shall not approve and operate any casino or similar gambling establishment and shall not approve or operate any game played with playing cards, dice, dominos, slot machines, roulette wheels, or where winners are determined by the outcome of a sports contest.

(3) This section shall not be construed to prohibit the corporation from advertising the lottery at, during, or in connection with a sports contest.

(4) This section shall not prohibit electronic games played on electronic gaming devices operated on the premises of electronic gaming device operators licensed under KRS Chapter 230A.

Section 30. KRS 154A.070 is amended to read as follows:

(1) The president, as chief executive officer of the corporation, shall direct and supervise all administrative and technical activities in accordance with the provisions of this chapter and with the administrative regulations adopted by the board. It shall be his duty to:

(a) Supervise and administer the operation of the lottery games;

(b) Employ and direct such personnel as may be necessary to carry out the purposes of this chapter and utilize such services, personnel, or facilities of the corporation as he may deem necessary. He may employ by personal service contract pursuant to KRS 45A.690 to 45A.725 and compensate such consultants and technical assistants as may be required to carry out the provisions of this chapter. The president may, by agreement, secure information and services as he may deem necessary from any department, agency, or unit of state government, and shall compensate such department, agency, or unit of state government for its services. Such agencies, departments, or units of state government shall cooperate with the corporation and provide such information and services as may be required by the corporation to assure the integrity of the lottery and the effective operation of the lottery games;

(c) Contract in accordance with ***this chapter and*** the administrative regulations of the corporation with persons to sell lottery tickets at retail***, and issue licenses in accordance with KRS Chapter 230A and the administrative regulations of the corporation***. The president shall require a bond or bank letter of credit from lottery retailers ***and electronic gaming device operators as defined under KRS Chapter 230A*** in an amount provided by administrative regulations issued by the board***, unless an electronic gaming device operator has demonstrated its financial stability or provided other financial assurances to the satisfaction of the president***;

(d) Make available for inspection by the board or any member of the board, upon request, all books, records, files, and other information and documents of his office and to advise the board and recommend such administrative regulations and other matters he deems necessary and advisable to improve the operation and administration of the lottery;

(e) Enter into any contract pursuant to KRS Chapters 45 and 45A or administrative regulations promulgated by the board, and pursuant to KRS 154A.120, with any person, firm, or corporation for the promotion and any operation of the lottery, or for the performance of any of the functions as provided in this chapter;

(f) Attend meetings of the board or appoint a designee to attend on his behalf; and

(g) On the first day of the Regular Session of the General Assembly in 1990 and biennially thereafter, submit the proposed biennial budget of the corporation to the Appropriations and Revenue Committee of the House of Representatives for review and comment. The budget shall be submitted to the Director of the Legislative Research

Commission within five (5) days of adoption by the board for distribution to the Appropriations and Revenue Committee of the House of Representatives for review.

(2) The president, with the approval of the board, may amend or modify the budget at any time in any manner deemed necessary for the proper operation of the corporation; however, each change shall be reported in writing to the board and to the director of the Legislative Research Commission, who shall transmit a copy of the change to the Appropriations and Revenue Committee of the House of Representatives.

(3) Following his confirmation, and during his entire term of office, the president shall reside in Kentucky.

(4) The president, and the board, may conduct an ongoing study of the operation and administration of lotteries in other states or countries, of available literature on the subject, of federal laws and regulations which may affect the operation of the lottery, and of the reaction of citizens of this state to existing or proposed features of lottery games, with a view toward implementing improvements that will tend to serve the purposes of this chapter.

(5) The president also may:

(a) Require bond from corporate employees with access to corporate funds or lottery funds, in such an amount as provided in the administrative regulations of the board. The president may also require bond from other employees as he deems necessary; and

(b) For good cause, suspend, revoke, or refuse to renew any contract entered into in accordance with the provisions of this chapter or the administrative regulations of the board.

Section 31. KRS 154A.080 is amended to read as follows:

(1) The corporation shall establish and maintain a personnel program for its employees. The corporation may procure benefit programs or group insurance plans and shall provide a retirement plan. Employees of the corporation shall serve at the pleasure of the president who shall determine their compensation and benefits. The employees shall be subject to suspension, dismissal, reduction in pay, demotion, transfer, or other personnel action at the discretion of the president. Such personnel actions shall be exempt from the provisions of KRS Chapter 18A. The compensation of officers at the division head level and above shall be exempt from the provisions of KRS 64.640.

(2) No officer or employee of the corporation shall have a financial interest in any vendor doing business or proposing to do business with the corporation.

(3) No officer or employee of the corporation with decision-making authority shall participate in any decision involving a retailer ***or electronic gaming device operator, manufacturer, or distributor as defined under KRS Chapter 230A*** with whom the officer or employee has a financial interest of five percent (5%) or more of the total value thereof.

(4) No officer or employee of the corporation who leaves the employ of the corporation may represent any vendor, lottery retailer, ***or electronic gaming device operator, manufacturer, or distributor as defined under KRS Chapter 230A*** or related entity before the corporation for a period of two (2) years following termination of employment with the corporation.

(5) A background investigation shall be conducted by the chief security officer of the corporation on every applicant who has reached the final selection process prior to employment by the corporation. Applicants may be fingerprinted as a condition of employment. In addition, all division directors of the corporation and employees of the corporation performing duties primarily related to security matters, prior to employment, shall be subject to a background investigation report conducted by the Kentucky State Police. The Kentucky State Police shall be reimbursed by the corporation for the cost of investigations conducted pursuant to this section. No person who has been convicted of a felony, bookmaking or other forms of illegal gambling, or of a crime involving moral turpitude shall be employed by the corporation. Any employee of the corporation who is or has been convicted of a felony, bookmaking, or any other form of illegal gambling or of a crime involving moral turpitude shall be terminated from employment by the corporation, except that this requirement shall not be interpreted to limit the right of the corporation to terminate the employment of any employee, at will, prior to any conviction.

Section 32. KRS 154A.090 is amended to read as follows:

(1) Any retailer, vendor, or applicant for a retailer or vendor contract ***or any licensee under KRS Chapter 230A or applicant for a license under KRS Chapter 230A*** aggrieved by an action of the president of the corporation may appeal that decision to the board.

(2) All appeals before the board shall be decided within thirty (30) days of the hearing.

(3) Any person aggrieved by a decision of the board may appeal the decision to the Circuit Court of the county in which the corporation maintains its headquarters, except that if the person aggrieved is a lottery retailer or an applicant to become a lottery retailer, ***or an electronic gaming device operator as defined under KRS Chapter 230A or an applicant to become an electronic gaming device operator,*** then the Circuit Court of the county in which said retailer ***or operator*** does or applicant would operate shall have concurrent venue as to such appeal.

(4) The Circuit Court may reverse the decision of the board only in the event the decision is found to be:

(a) Clearly erroneous; or

(b) Arbitrary and capricious; or

(c) Procured by fraud; or

(d) A result of misconduct by the board, or a member thereof.

Section 33. KRS 154A.110 is amended to read as follows:

(1) Proceeds of lottery prizes shall be subject to Kentucky state income tax. Any attachments, garnishments, or executions authorized and issued pursuant to statute shall also be withheld if served upon the process agent of the corporation. This section shall not apply to a retailer ***or an electronic gaming device operator as defined under KRS Chapter 230A***.

(2) The board shall adopt rules to establish a system of verifying the validity of ***lottery*** tickets claimed to win prizes and to effect payment of such prizes, except that:

(a) No prize, nor any portion of a prize, nor any right of any person to a prize awarded shall be assignable. Any prize, or portion thereof, remaining unpaid at the death of a prize winner shall be paid to the estate of such deceased prize winner or to the trustee under a revocable living trust established by the deceased prize winner as settlor, provided that a copy of such a trust has been filed with the corporation along with a notarized letter of direction from the settlor and no written notice of revocation has been received by the corporation prior to the settlor's death. Following such a settlor's death and prior to any payment to such a successor trustee, the corporation shall obtain from the trustee and each trust beneficiary a written agreement to indemnify and hold the corporation harmless with respect to any claims that may be asserted against the corporation arising from payment to or through the trust. Notwithstanding any other provisions of this section, any person, pursuant to an appropriate judicial order, shall be paid the prize to which a winner is entitled.

(b) No ***lottery*** ticket shall knowingly be sold to any person under the age of eighteen (18), but this section does not prohibit the purchase of a ***lottery*** ticket by a person eighteen (18) years of age or older for the purpose of making a gift to any person of any age. In such case, the corporation shall direct payment to an adult member of the person's family or the legal guardian of the person on behalf of such person. The person named as custodian shall have the same powers and duties as prescribed for a custodian pursuant to the Uniform Transfers to Minors Act.

(c) No prize shall be paid arising from claimed ***lottery*** tickets that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the corporation within applicable deadlines, lacking in captions that conform and agree with the play symbols as appropriate to the lottery game involved, or not in compliance with such additional specific rules and public or confidential validation and security tests of the corporation appropriate to the particular lottery game involved.

(d) No particular prize in any lottery game shall be paid more than once, and in the event of a binding determination that more than one claimant is entitled to a particular prize, the sole remedy of such claimants is the award to each of them of an equal share in the prize.

(e) A holder of a winning cash ***lottery*** ticket from a Kentucky lottery game shall claim a prize within three hundred sixty-five (365) days (for a ***lottery*** ticket issued before January 1, 1995), and within one hundred eighty (180) days (for a ***lottery*** ticket issued on or after January 1, 1995), or for a multistate lottery game within one hundred eighty (180) days, after the drawing in which the prize was won. In any Kentucky lottery game in which the player may determine instantly if he has won or lost, he shall claim a prize within three hundred sixty-five (365) days (for lottery games commenced or ***lottery*** tickets printed or reprinted before January 1, 1995), and within one hundred eighty (180) days (for lottery games commenced or ***lottery*** tickets printed or reprinted on or after January 1, 1995), or for a multistate lottery game within one hundred eighty (180) days, after the end of the lottery game as announced by the corporation. However, a holder of a pull-tab lottery ticket shall claim a prize within the time period and in the manner printed on the ticket. If a valid claim is not made for a prize within the applicable period, the prize shall constitute an unclaimed prize for purposes of subsection (3) of this section.

(f) No prize shall be paid upon a ***lottery*** ticket purchased or sold in violation of this chapter. Any such prize shall constitute an unclaimed prize for purposes of subsection (3) of this section.

(3) Any unclaimed ***lottery ticket*** prize money may be retained by the corporation and added to the pool from which future prizes are to be awarded or used for special prize promotions, or may be appropriated by the General Assembly directly from the corporation for any public purpose. For fiscal years 2000-2001 and 2001-2002, any unclaimed prize money in excess of six million dollars ($6,000,000) shall be transferred to the affordable housing trust fund established by KRS 198A.710.

(4) The corporation is discharged of all liability upon payment of a ***lottery ticket*** prize.

(5) No ***lottery*** ticket shall be purchased by and no prize shall be paid to any of the following persons:

(a) Any member of the board of directors, officers, or employees of the corporation;

(b) Any vendors or related entities, or any member of the board of directors, officers, employees of, partners in, or owners of any vendors or related entities to the vendors; or

(c) Any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any such person.

Section 34. KRS 154A.130 is amended to read as follows:

(1) All money received by the corporation from the sale of lottery tickets and all other sources***, except gaming income as defined under KRS Chapter 230A,*** shall be deposited into a corporate operating account. ***All gaming income paid to the corporation by electronic gaming device operators as provided in Section 14 of this Act shall be deposited into a separate gaming income account, which shall be administered in accordance with Section 14 of this Act.*** The corporation is authorized to use all money in the corporate operating account for the purposes of paying ***lottery ticket*** prizes and the necessary expenses of the corporation and dividends to the state. The corporation shall allocate the amount to be paid by the corporation to ***lottery ticket*** prize winners. The amount in the corporate operating account which the corporation anticipates will be available for the payment of ***lottery ticket*** prizes on an annuity basis may be invested in direct United States Treasury obligations. These instruments may be in varying maturities with respect to payment of annuities and may be in book-entry form. Monthly, no later than the last business day of the succeeding month, the corporation shall transfer ***from the corporate operating account*** to a lottery trust fund the amount of net revenues which the corporation determines are surplus to its needs. These funds shall be held in trust until 1990 at which time the General Assembly shall determine the manner in which the funds will be allocated and appropriated. The net revenues shall be determined by deducting from gross revenues the payment costs incurred in the operation and administration of the lottery, including the expenses of the corporation and the costs resulting from any contract or contracts entered into for promotional, advertising, or operational services or for the purchase or lease of lottery equipment and materials, fixed capital outlays, and the payment of prizes to the holders of winning ***lottery*** tickets. After the start-up costs are paid, it is the intent of the Legislature that it shall be the goal of the corporation to transfer each year thirty-five percent (35%) of gross revenues to the general fund for the purposes stated above.

(2) A Kentucky lottery trust account is established in the State Treasury. Net lottery revenues shall be credited to this restricted account as provided in subsection (1) of this section. Moneys credited to the Kentucky lottery trust account shall be invested by the state in accordance with state investment practices and all earnings from the investments shall accrue to this account. No moneys shall be allotted or expended from this account unless pursuant to an appropriation by the General Assembly, except that moneys as are needed shall be transferred to the general fund pursuant to the provisions of the Acts of the Extraordinary Session of the 1988 General Assembly. Moneys in the Kentucky lottery trust account shall not lapse at the close of the state fiscal year.

(3) Beginning in fiscal year 1999-2000, and each fiscal year thereafter, three million dollars ($3,000,000) from net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:

(a) To the Collaborative Center for Literacy Development, one million two hundred thousand dollars ($1,200,000) in fiscal year 1999-2000 and each fiscal year thereafter; and

(b) To the early reading incentive fund, one million eight hundred thousand dollars ($1,800,000) in fiscal year 1999-2000 and each fiscal year thereafter.

(4) After the allocation of three million dollars ($3,000,000) to literacy development, as provided in subsection (3) of this section, net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:

(a) To the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund established in KRS 164.7877:

1. Seven million dollars ($7,000,000) in fiscal year 1999-2000;
2. Fifteen percent (15%) in fiscal year 2000-2001;
3. Twenty-five percent (25%) in fiscal year 2001-2002;
4. Thirty-two percent (32%) in fiscal year 2002-2003;
5. Forty percent (40%) in fiscal year 2003-2004; and
6. Forty-five percent (45%) in fiscal year 2004-2005 and each fiscal year thereafter; and

(b) To the College Access Program and the Kentucky Tuition Grants Program established in KRS Chapter 164:

1. Fourteen million dollars ($14,000,000) in fiscal year 1998-1999;
2. Fifteen million dollars ($15,000,000) in fiscal year 1999-2000;
3. Thirty-two percent (32%) in fiscal year 2000-2001 through fiscal year 2002-2003;
4. Forty percent (40%) in fiscal year 2003-2004;
5. Forty-five percent (45%) in fiscal year 2004-2005; and
6. Fifty-five percent (55%) of net lottery revenues in fiscal year 2005-2006 and each fiscal year thereafter.

(5) The Auditor of Public Accounts shall be responsible for a financial postaudit of the books and records of the corporation. The postaudit shall be conducted in accordance with generally accepted accounting principles, shall be paid for by the corporation, and shall be completed within ninety (90) days of the close of the corporation's fiscal year. The Auditor of Public Accounts shall contract with an independent, certified public accountant who meets the qualifications existing to do business within the Commonwealth of Kentucky to perform the corporation postaudit. The Auditor of Public Accounts shall remain responsible for the annual postaudit and the corporation shall pay all audit costs. The Auditor of Public Accounts may at any time conduct additional audits, including performance audits, of the corporation as he deems

necessary or desirable. Contracts shall be entered into for audit services for a period not to exceed five (5) years and the same firm shall not receive two (2) consecutive audit contracts. All audits shall be filed with the Governor, the President of the Senate, and the Speaker of the House of Representatives. The corporation shall reimburse the Auditor of Public Accounts for the reasonable costs of any audits performed by him. The corporation shall cooperate with the Auditor of Public Accounts by giving employees designated by any of them access to facilities of the corporation for the purpose of efficient compliance with their respective responsibilities. With respect to any reimbursement that the corporation is required to pay to any agency, the corporation shall enter into an agreement with that agency under which the corporation shall pay to the agency an amount reasonably anticipated to cover the reimbursable expenses in advance of the expenses being incurred.

(6) By no later than December 31 of each year, in an advertisement at least one-fourth (1/4) of a page in size, the Kentucky Lottery Corporation shall publish the following information in every general-circulation daily newspaper published in Kentucky:

(a) The statements of revenue, expenses, and changes in retained earnings as shown in the most recent annual audit report. It shall be explained that the transfer of dividends is the amount of lottery earnings transferred to the general fund;

(b) A statement identifying the auditing firm;

(c) A telephone number which citizens may call to obtain a complete copy of the annual audit report; and

(d) The name of the president/chief executive officer of the Kentucky Lottery Corporation and a complete list of board members.

The Kentucky Lottery Corporation shall pay for the cost of the advertisement.

Section 35. KRS 154A.420 is amended to read as follows:

(1) All proceeds from the sale of lottery tickets received by a person in the capacity of a lottery retailer shall constitute a trust fund until paid to the corporation either directly, or through the corporation's authorized collection representative. Proceeds shall include unsold instant ***lottery*** tickets received by a lottery retailer and cash proceeds of sale of any lottery products ***by lottery retailers***, net of allowable sales commissions and credit for lottery prizes paid to winners by lottery retailers. Sales proceeds ***of lottery tickets*** and unused instant ***lottery*** tickets shall be delivered to the corporation or its authorized collection representative upon demand. The corporation shall, by administrative regulation, require retailers to place all lottery proceeds due the corporation in accounts in institutions insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation not later than the close of the next banking day after the date of their collection by the retailer until the date they are paid over to the corporation. The corporation may require a retailer to establish a single separate electronic funds transfer account, where available, for the purpose of receiving moneys from ***lottery*** ticket sales, making payments to the corporation, and receiving payments from the corporation. Lottery retailers shall be personally liable for all proceeds. This section shall apply to all lottery tickets generated by computer terminal, other electronic device, and any other ***lottery*** tickets delivered to lottery retailers. ***All licensed electronic gaming device operators as defined under KRS Chapter 230A shall furnish to the corporation all protocol documentation and electronic funds transfer data necessary to effectuate the timely transfer of gaming income as defined under KRS Chapter 230A to the corporation in accordance with Section 14 of this Act.***

(2) Whenever any person who receives proceeds from the sale of lottery tickets ***or the operation of electronic gaming devices as defined under KRS Chapter 230A*** in the capacity of a lottery retailer ***or electronic gaming device operator*** becomes insolvent, or dies insolvent, the proceeds due the corporation from such person or his estate shall have preference over all debts or demands.

(3) (a) A lien is hereby given to the corporation on all funds and other personal property, on all real property, and on all rights to real or personal property owned or subsequently acquired by each retailer ***or electronic gaming device operator as defined under KRS Chapter 230A*** in the amount of, and to secure, the retailer's ***or electronic gaming device operator's*** obligations to remit lottery proceeds ***or gaming income as defined under KRS Chapter 230A*** to the corporation. The lien shall be in the amount of all sums due to the corporation at any time, together with all interest, penalties, fees, commissions, charges, and other expenses incurred by reason of nonpayment of the lottery proceeds ***or gaming income*** to the corporation or in the process of collecting those proceeds ***or income***, and shall have priority over any other obligation or liability for which the funds or real or personal property are liable. The lien shall be of equal rank with the tax liens of the state, or any city, county, or other taxing authority within the state. The lien shall arise upon the receipt of lottery proceeds by the retailer ***or gaming income by the electronic gaming device operator as defined in KRS Chapter 230A***, whether or not the retailer ***or electronic gaming device operator*** is at that time obligated to remit all or any portion of those proceeds ***or income*** to the corporation, and shall be enforceable until the liability is paid or extinguished.

(b) The lien imposed by paragraph (a) of this subsection shall not be valid as against any purchaser, judgment lien creditor, or holder of a security interest or mechanic's lien until notice of the corporation's lien has been filed by the corporation with the county clerk of any county or counties in which the retailer's ***or electronic gaming device operator's*** business or residence is located, or in any county in which the retailer has an interest in property. The recording of the lien shall constitute notice of both the original obligation to the corporation and all subsequent obligations to the corporation of the same retailer ***or electronic gaming device operator as defined under KRS Chapter 230A***. Upon request, the corporation shall disclose the specific amount of liability at any given date to any interested party legally entitled to the information.

(c) Even though notice of a lien has been filed as provided by paragraph (b) of this subsection, and notwithstanding the provisions of KRS 382.520, the lien imposed by paragraph (a) of this subsection shall not be valid with respect to a security interest which comes into existence after the notice of lien has been filed by reason of disbursements made within forty-five (45) days after the date the lien was filed or the date the person making the disbursements had actual notice of the lien filing, whichever is earlier, if the security interest:

1. Is in property which at the time of filing is subject to the lien imposed by paragraph (a) of this subsection, and is covered by the terms of a written agreement entered into before the lien is filed; and

2. Is protected under local law against a judgment lien arising as of the time of the lien filing, out of an unsecured obligation.

(d) The corporation shall be afforded the same rights and remedies with respect to enforcement of any lien and collection of lottery proceeds ***or gaming income as defined under KRS Chapter 230A*** as is afforded state, county, city, and other taxing authorities by KRS Chapter 134.

Section 36. KRS 154A.650 is amended to read as follows:

(1) The Kentucky State Police shall, at the request of the division of security, perform full criminal background investigations on all potential vendors and potential employees of the corporation at the level of division director and above and at any level within the division of security. The corporation shall reimburse the Kentucky State Police for the actual costs of such investigations.

(2) The corporation or its division of security shall:

(a) Conduct criminal background investigations and credit investigations on all potential ***lottery*** retailers ***and electronic gaming device operators*** and investigate all potential employees of the corporation not referred to in subsection (1) of this section;

(b) Supervise ***lottery*** ticket validation and lottery ***ticket*** drawings;

(c) Inspect at times determined solely by the division, the facilities of any vendor in order to determine the integrity of the vendor's product and in order to determine whether the vendor is in compliance with its contract;

(d) Report any suspected violations of this chapter to the appropriate Commonwealth's attorney, or the Attorney General and law enforcement agencies; and

(e) Upon request, provide assistance to any Commonwealth's attorney, the Attorney General or law enforcement agency investigating a violation of this chapter.

Section 37. KRS 230.260 is amended to read as follows:

The commission, in the interest of breeding or the improvement of breeds of horses, shall have all powers necessary and proper to carry out fully and effectually the provisions of this chapter including, but without limitation, the following:

(1) The commission is vested with jurisdiction and supervision over all horse race meetings in this Commonwealth and over all associations and all persons on association grounds and may eject or exclude therefrom or any part thereof, any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the commission, reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of horse racing or racing at horse race meetings; provided, however, no persons shall be excluded or ejected from association grounds solely on the ground of race, color, creed, national origin, ancestry, or sex;

(2) The commission, its representatives and employees, may visit, investigate and have free access to the office, track, facilities, or other places of business of any licensee for the purpose of satisfying itself that this chapter and its administrative regulations are strictly complied with;

(3) The commission shall have full authority to prescribe necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted in this state and to fix and regulate the minimum amount of purses, stakes, or awards to be offered for the conduct of any horse race meeting;

(4) Applications for licenses shall be made in the form, in the manner, and contain information as the commission may, by administrative regulation, require. Fees for all licenses issued under KRS 230.310 ***or KRS Chapter 230A*** shall be prescribed by and paid to the commission;

(5) The commission shall establish by administrative regulation minimum fees for jockeys to be effective in the absence of a contract between an employing owner or trainer and a jockey. The minimum fees shall be no less than those of July 1, 1985;

(6) Any of the foregoing administrative regulations, to the extent they are promulgated, shall be promulgated, amended, or repealed in conformity with KRS Chapter 13A;

(7) The commission may issue subpoenas for the attendance of witnesses before it and administer oaths to witnesses whenever, in the judgment of the commission, it is necessary to do so for the effectual discharge of its duties;

(8) The commission shall have authority to compel any racing association licensed under this chapter to file with the commission at the end of its fiscal year, a balance sheet, showing assets and liabilities, and an earnings statement, together with a list of its stockholders or other persons holding a beneficial interest in the association;

(9) The commission shall promulgate administrative regulations establishing safety standards for jockeys, which shall include the use of rib protection equipment. Rib protection equipment shall not be included in a jockey's weight***;***

(10) The commission shall have all powers necessary and proper to carry out fully and effectively its responsibilities relating to electronic gaming device games as described in KRS Chapter 230A, including the application and licensing of electronic gaming device employees, overseeing proceeds from electronic gaming device games as described in Section 14 of this Act for the promotion and betterment of the Kentucky horse industry, and promulgating such administrative regulations governing the integration of electronic gaming device games at racetracks as it deems necessary for the protection of the public.

Section 38. KRS 230.310 is amended to read as follows:

Every person not required to be licensed under KRS 230.300 who desires to participate in horse racing in the Commonwealth as a horse owner, trainer, jockey, apprentice jockey, agent, stable employee, racing official, association employee, or employee of a person or concern contracting with the association to provide a service or commodity and which requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, ***or electronic gaming device employee as defined in subsection (6) of Section 2 of this Act,*** shall first apply to the commission for a license to participate in the activity on association grounds during a race meeting. No person required to be licensed by this section may participate in any activity required to be licensed on association grounds during a race meeting without a valid license therefor. An applicant for a license shall submit to the commission fingerprints as may be required and other information necessary and reasonable for processing a license application. The commission is authorized to exchange fingerprint data with the Kentucky State Police and the Federal Bureau of Investigation in order to conduct a criminal history background check of an applicant. The commission may issue a license if it finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license, are consistent with the best interest of racing and the maintenance of the honesty, integrity, and high quality thereof. A license shall be issued for the calendar year in which it is issued and may be renewed by the commission. The license shall be valid at all horse race meetings in the Commonwealth during the period for which it is issued unless suspended or revoked under the administrative regulations promulgated by the commission under this chapter. With respect to horse owners and trainers, the commission may promulgate administrative regulations to facilitate and promote uniform, reciprocal licensing with other states.

Section 39. KRS 230.377 is amended to read as follows:

(1) Other provisions of the Kentucky Revised Statutes notwithstanding, a track may apply to the commission for simulcasting and intertrack wagering dates. Applications shall be submitted in accordance with KRS 230.300. The commission shall not approve the establishment or relocation of a receiving track within a radius of seventy-five (75) miles of a race track duly licensed as of July 15, 1992, without the prior written consent of the licensed track within whose seventy-five (75) mile radius the new receiving track would be located.

(2) On or before November 1 of each year, the commission shall meet and award intertrack wagering dates to all tracks for the entire succeeding calendar year. In a geographic area containing more than one (1) track within a fifty (50) mile radius of another track, intertrack wagering shall be limited to simulcasting and wagering on racing of the same breed of horse as the receiving track was licensed to race on or before July 15, 1998.

(3) The commission shall approve no more than nine (9) tracks for participation in horse racing, intertrack wagering, and simulcasting. Any approval by the commission of a change in location of these tracks shall be subject to the local-approval process contained in KRS 230.380.

(4) A track may by administrative regulation be required to simulcast its races to one (1) or more receiving tracks approved for simulcasting and intertrack wagering, as a prerequisite for the issuance of a license pursuant to KRS 230.300, provided that:

- (a) Each track shall be permitted to exempt one (1) day of racing from simulcasting to both receiving tracks and simulcast facilities, at its discretion;
- (b) Tracks in a county containing a city of the first class ***or a consolidated local government*** and tracks in an urban-county government shall not be required to simulcast to each other or to any other facility in those counties. This provision shall not be construed as requiring tracks within the same county to simulcast to each other; and
- (c) In the absence of a contract between a host track and a receiving track, the commission shall be split as provided for in KRS 230.378(3).

(5) A track may receive simulcasts and conduct interstate wagering thereon subject to the following limitations which shall be in addition to the limitations set forth in KRS 230.3771:

- (a) A track licensed to conduct thoroughbred racing may receive simulcasts and conduct interstate wagering on all thoroughbred horse races designated as graded stakes races by the Graded Stakes Committee of the Thoroughbred Owners and Breeders Association, Inc., without further consents or approvals.
- (b) A track licensed to conduct harness racing may receive simulcasts and conduct interstate wagering on all harness

horse races (both final and elimination) having a final purse in excess of seventy-five thousand dollars ($75,000) without further consents or approvals.

(c) A track which applies to the commission to receive an interstate race of a different breed than the breed for which it is licensed by the commission shall receive any simulcast of an interstate race through the intertrack wagering system upon approval by the commission. ***Notwithstanding the foregoing, a track licensed to conduct horse racing may receive simulcasts and conduct interstate wagering on quarter horse races, subject to the limitations of Section 40 of this Act.***

(d) A track may receive simulcasts of special event races conducted in other states or foreign countries which are determined by the commission to be of sufficient national or international significance or interest to warrant interstate wagering and if the simulcast of these races has been approved by the Kentucky Thoroughbred Owners and Breeders Association, Inc., the Kentucky Division of the Horseman's Benevolent and Protective Association, for thoroughbred races, and the Kentucky Harness Horsemen's Association for harness racing, and any track conducting live horse races of the same breed at the same time as the simulcast race.

(e) A track may also receive simulcasts and conduct interstate wagering on thoroughbred horse races other than those described in paragraphs (a) and (d) of this section if the simulcast of these races has been approved by the Kentucky Thoroughbred Owners and Breeders Association, Inc., and the Kentucky Horsemen's Benevolent and Protective Association, for thoroughbred races, and the Kentucky Harness Horsemen's Association, or its successor, for harness racing.

(f) The consent required by paragraph (e) of this subsection or by subsections (1)(g) and (2)(g) of KRS 230.3771 shall not be withheld:

1. For any reason not specifically related to financial harm to live horse racing; or

2. As a condition to the granting of any contractual or other concession not specifically related to the effects of interstate simulcasting on live horse racing in this Commonwealth, taken as a whole.

(g) A host track located in this state may receive simulcasting of not more than two (2) full cards of racing from another state, if both tracks race horses of the same breed and if:

1. The race date was previously granted by the Kentucky Racing Commission to conduct live racing at the track located in this state;

2. Live racing was canceled due to weather conditions; and

3. The consent required by subsection (5)(d) of this section is obtained.

(h) The in-state track receiving the simulcast specified in paragraph (g) of this subsection shall offer that simulcast to all participating tracks and simulcast facilities in the intertrack wagering system.

(i) All interstate simulcasting shall be conducted in accordance with applicable federal laws.

(6) The commission may promulgate necessary and reasonable administrative regulations for the purpose of administering the conduct of intertrack or interstate wagering and regulating the conditions under which wagering shall be held and conducted. Administrative regulations shall provide for the prevention of practices detrimental to the public interest and to impose penalties for violations. All administrative regulations shall be in conformity with the provisions of KRS Chapter 13A, KRS 138.510, and this chapter.

(7) Subsections (2) and (3) of this section shall apply only to intertrack wagering dates awarded for calendar year 1993 and thereafter, and any unresolved intertrack wagering dates for calendar year 1992 shall be awarded pursuant to applicable provisions of law in effect immediately prior to March 30, 1992.

Section 40. KRS 230.3771 is amended to read as follows:

(1) A thoroughbred track licensed to conduct thoroughbred racing may receive interstate simulcasts of thoroughbred horse races and conduct interstate wagering thereon, subject to the following limitations:

(a) A thoroughbred receiving track may receive interstate simulcasts of thoroughbred races and conduct interstate wagering thereon at any time of day and during any live thoroughbred horse race meet conducted in the Commonwealth of Kentucky so long as the thoroughbred receiving track conducting interstate wagering remits to the thoroughbred host track conducting a live meet, from the first awarded day of its live meet through the last awarded day of the same live meet, the amounts provided in paragraph (j) of this subsection.

(b) A thoroughbred host track which receives interstate simulcasts and conducts interstate wagering thereon during the period of time from the first awarded day of its live meet through the last awarded day of its live meet shall offer the simulcasts to all thoroughbred receiving tracks, all harness tracks not subject to the provisions of KRS 230.377(2), and all simulcast facilities through the intertrack wagering system.

(c) Except as otherwise prohibited by law, a receiving track shall conduct intertrack wagering on all live races of all thoroughbred host tracks on any day on which it receives an interstate simulcast for the purpose of conducting interstate wagering.

(d) No host track shall require that any receiving track or simulcast facility receive the interstate simulcast.

(e) If more than one (1) thoroughbred track conducts live racing at the same time on the same day, no track or simulcast facility may receive an interstate simulcast of thoroughbred races unless all thoroughbred tracks conducting live racing at the same time of day agree upon all interstate simulcasts to be received and the division of the thoroughbred host track's commission. If more than one (1) thoroughbred track conducts live racing at different times on the same day, the thoroughbred host track with the highest average daily handle, based on the preceding year, shall be the host track for purposes of splitting the commissions earned on interstate wagering at receiving tracks within the Commonwealth. For purposes of this subsection, average daily handle includes live handle, intertrack wagering handle, and simulcast facility handle. Also for purposes of this subsection, the time of day during which a host track conducts live racing commences with its first published post time and concludes ten (10) minutes after the published post time of its last race of the day, regardless of actual post times.

(f) Each thoroughbred track which desires to conduct interstate wagering pursuant to the provisions of this subsection shall during each year make application to the commission for no less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 and one hundred percent (100%) of the number of races scheduled to be run by the track in 1993.

(g) Notwithstanding subsection (f) of this subsection, any thoroughbred track may apply for less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 or one hundred percent (100%) of the number of races scheduled to be run by the track in 1993, if written approval is obtained from the Kentucky Horsemen's Benevolent and Protective Association and the Kentucky Thoroughbred Owners and Breeders Association, Inc.

(h) A separate accounting on all interstate simulcasting shall be submitted to the commission. The accounting shall be submitted in the same format and at the same time that the report for intertrack wagering is submitted.

(i) If the only simulcast or simulcasts a track participating as a host track makes available for interstate wagering through this state's intertrack wagering system on any race day are thoroughbred horse races designated as graded stakes races by the Graded Stakes Committee of the Thoroughbred Owners and Breeders Association, Inc., then the commission of the receiving track on these interstate wagers shall be split as prescribed by KRS 230.378(3); otherwise, the commission of the receiving track shall be split as prescribed by paragraph (j) of this subsection. Interstate simulcasts received by a thoroughbred host track under the conditions set forth in this paragraph shall not be subject to the conditions set forth in paragraphs (b), (c), (e), and (f) of this subsection.

(j) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:

1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;
2. Twenty-five percent (25%) to the thoroughbred host track designated by paragraphs (a) and (e) of this subsection. However, if the race does not occur between the first awarded day of a live meet and the last awarded day of the same live meet, an additional twenty-five percent (25%) shall be retained by the receiving track where the interstate wagering occurs;
3. Twenty-five percent (25%) to the purse program of the receiving track where the interstate wagering occurs; and
4. Twenty-five percent (25%) to the purse program of the thoroughbred host track designated by paragraphs (a) and (e) of this subsection. However, if the race does not occur between the first awarded day of a live meet and the last awarded day of the same live meet, then an additional twenty-five percent (25%) shall be paid to the purse program of the receiving track where the interstate wagering occurs.

(k) A simulcast facility's commission on interstate wagering on thoroughbred racing, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as provided in KRS 230.380(9).

(2) A harness track licensed to conduct harness racing may receive interstate simulcasts of harness horse races and conduct interstate wagering thereon subject to the following limitations:

(a) A harness receiving track may receive interstate simulcasts of harness races and conduct interstate wagering thereon at any time of day and during the course of any live harness horse race meet conducted in the Commonwealth of Kentucky so long as the harness receiving track conducting interstate wagering remits to the harness host track conducting a live meet, from the first awarded day of its live meet through the last awarded day of the same live meet, the amounts provided in paragraph (j) of this subsection.

(b) A harness host track which receives an interstate simulcast and conducts interstate wagering thereon during its live race meet shall offer the simulcasts to all thoroughbred receiving tracks not subject to the provisions of KRS 230.377(2), all harness tracks, and all simulcast facilities through the intertrack wagering system.

(c) Except as otherwise prohibited by law, a harness receiving track or a simulcast facility shall conduct intertrack wagering on all live races of a harness host track on any day it receives an interstate simulcast from a harness host track.

(d) No host track shall require that any receiving track or simulcast facility receive the interstate simulcast.

(e) If more than one (1) harness track conducts live racing at the same time on the same day, no track or simulcast facility may receive an interstate simulcast on harness races unless all harness tracks conducting live racing at that time of day agree upon the interstate simulcast to be received and the division of the harness host track's commission. If more than one (1) harness track conducts live racing at different times on the same day, the harness host track with the highest average daily handle, based on the preceding year, shall be the host track for purposes of splitting the commissions earned on interstate wagering at receiving tracks within the Commonwealth. For purposes of this subsection, average daily handle includes live handle, intertrack wagering handle, and simulcast facility handle. Also for purposes of this subsection, the time of day during which a host track conducts live racing commences with its first published post time and conclude ten (10) minutes after the published post time of its last race of the day, regardless of actual post times.

(f) Each harness track which desires to conduct interstate wagering pursuant to the provisions of this subsection shall during each year make application to the commission for no less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 and one hundred percent (100%) of the number of races scheduled to be run by the track in 1993.

(g) Notwithstanding subsection (f) of this subsection, any harness track may apply for less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 or one hundred percent (100%) of the number of races scheduled to be run by the track in 1993, if written approval is obtained from the Kentucky Harness Horsemen's Association, or its successor.

(h) A separate accounting on all interstate simulcasting shall be submitted to the commission. This accounting shall be submitted in the same format and at the same time that the report for intertrack wagering is submitted.

(i) If the only simulcast or simulcasts a track participating as a harness host track makes available for interstate wagering through this state's intertrack wagering system on any race day are harness horse races (both final and elimination) having a final purse in excess of seventy-five thousand dollars ($75,000), then the commission of the receiving track on these interstate wagers shall be split as prescribed by KRS 230.378(3); otherwise, the commission of the receiving track shall be split as prescribed by paragraph (j) of this subsection. Interstate simulcasts received by a harness host track under the conditions set forth in this paragraph shall not be subject to the conditions set forth in paragraphs (b), (c), (e), and (f) of this subsection.

(j) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:

1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;
2. Twenty-five percent (25%) to the harness host track designated by paragraphs (a) and (e) of this subsection. However, if no live meet is occurring, an additional twenty-five percent (25%) shall be retained by the receiving track where the interstate wagering occurs;
3. Twenty-five percent (25%) to the purse program of the receiving track where the interstate wagering occurs; and
4. Twenty-five percent (25%) to the purse program of the harness host track designated by paragraphs (a) and (e) of this subsection. However, if no live meet is occurring, an additional twenty-five percent (25%) shall be paid to the purse program of the receiving track where the interstate wagering occurs.

(k) A simulcast facility's commission on interstate wagering on harness races, after deduction of applicable taxes and any amount required to be paid by contract to the track from which the interstate simulcast originated, shall be split as provided in KRS 230.380(9).

(3) A harness track may only receive interstate simulcasts of thoroughbred horse races and conduct interstate wagering thereon as provided in subsection (1)(b) of this section. A thoroughbred track may only receive interstate simulcasts of harness horse races and conduct interstate wagering thereon as provided in subsection (2)(b) of this section. A simulcast facility may only receive interstate simulcasts of thoroughbred and harness horse races and conduct interstate wagering thereon as provided in subsections (1)(b) and (2)(b) of this section.

(4) *(a) A track licensed to conduct horse racing may receive interstate simulcasts of quarter horse races and conduct interstate wagering thereon, subject to the limitations stated in paragraph (b) of this subsection.*

(b) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:

1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;
2. Twenty-five percent (25%) to the host track; and
3. Fifty percent (50%) to the quarter horse purse program within this state, to be allocated by the American Quarter Horse Association or its successor to supplement purses for quarter horse racing in this state.

(5) Other provisions of the Kentucky Revised Statutes notwithstanding, any track in a geographic area that contains more than one (1) track within a fifty (50) mile radius of any other track may only receive interstate simulcasts on racing of the same

breed of horse as the track was licensed to race on or before July 15, 1998.

Section 41. KRS 230.378 is amended to read as follows:

(1) A receiving track may accept wagers only at the track where it is licensed to conduct its race meeting or conduct intertrack wagering. A receiving track may accept wagers through a telephone account wagering system. Wagers at a receiving track, simulcast facility, or on telephone account wagering shall form a common pool with wagers at a host track. This common pool requirement shall not apply to wagers made in connection with interstate simulcasting pursuant to KRS 230.3771; however, common pools shall be encouraged.

(2) Except as provided in KRS 230.3771(2), the commission of a receiving track, simulcast facility, or on telephone account wagering shall be the same as the commission of the host track as determined in KRS 230.3615 or 230.750.

(3) In the absence of a valid contract with a horsemen's organization, the commission of a receiving track, after deduction of applicable taxes and other applicable deductions, shall be split as follows:

  (a) With respect to races other than quarter horse races, twenty-two percent (22%) to the host track, twenty-two percent (22%) to the purse program at the host track, twenty-two percent (22%) to the receiving track and twenty-two percent (22%) to the purse program at the receiving track. Twelve percent (12%) of the commission shall be allocated evenly between the host track and the receiving track to cover the cost of simulcasting, unless otherwise agreed to by contract***; and***

  (b) With respect to quarter horse races, twenty-five percent (25%) to the host track, twenty-five percent (25%) to the receiving track, and fifty percent (50%) to the quarter horse purse program in this state.

(4) The deduction for the backside improvement fund, as provided for in KRS 230.3615(4) shall not apply to the commission or pari-mutuel tax of a receiving track or telephone account wagering.

(5) A receiving track shall be exempt from the admissions tax levied in KRS 138.480 and from any license fee imposed by statute or regulation by the commission.

Section 42. KRS 243.500 is amended to read as follows:

Any license issued under KRS 243.020 to 243.670 may be revoked or suspended for the following causes:

(1) Conviction of the licensee or his agent or employee for selling any illegal beverages on the licensed premises.

(2) Making any false, material statements in an application for a license or supplemental license.

(3) Violation of the provisions of KRS 243.670.

(4) Conviction of the licensee or any of his clerks, servants, agents, or employees of:

  (a) Two (2) violations of the terms and provisions of KRS Chapter 241, 243, or 244 or any act regulating the manufacture, sale, and transportation of alcoholic beverages within two (2) consecutive years;

  (b) Two (2) misdemeanors directly or indirectly attributable to the use of intoxicating liquors within two (2) consecutive years; or

  (c) Any felony.

(5) Failure or default of a licensee to pay an excise tax or any part of the tax or any penalties imposed by or under the provisions of any statutes, ordinances, or Acts of Congress relative to taxation, or for a violation of any administrative regulations promulgated by the Revenue Cabinet made in pursuance thereof.

(6) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600, and 243.610, or granted under any Act of Congress relative to the regulation of the manufacture, sale, and transportation of alcoholic beverages. Any license issued under KRS 243.020 to 243.670 shall be revoked or suspended if the licensee sells the alcoholic beverages at a price in excess of the price set by federal or state regulations.

(7) Setting up, conducting, operating, or keeping, on the licensed premises, any gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility. This section shall not apply to contests in which eligibility to participate is determined by chance and the ultimate winner is determined by skill and the licensee has no direct interest, or to the sale of lottery tickets sold under the provisions of KRS Chapter 154A***, or to the operation of electronic gaming device games by an electronic gaming device operator licensed and regulated under the provisions of KRS Chapter 230A***.

(8) Conviction of the licensee, his agents, servants, or employees for:

  (a) The sale or use upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances;

  (b) Knowingly permitting the sale or use by patrons upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances; or

  (c) Knowingly receiving stolen property upon the licensed premises.

Section 43. KRS 243.505 is amended to read as follows:

The operation of a pari-mutuel system for betting, where authorized by law, ***or the operation of electronic gaming device games***

by an electronic gaming device operator licensed and regulated under the provisions of KRS Chapter 230A, or the conduct of charitable gaming by a charitable organization licensed and regulated under the provision of KRS Chapter 238, shall not constitute grounds for the revocation or suspension of any license issued under KRS Chapter 243.

Section 44. KRS 525.090 is amended to read as follows:

(1) A person is guilty of loitering when he:

(a) Loiters or remains in a public place for the purpose of gambling with cards, dice or other gambling paraphernalia, except that the provisions of this section shall not apply if the person is participating in charitable gaming defined by KRS 238.505***, or is playing an electronic gaming device game on the premises of an electronic gaming device operator licensed and regulated under the provisions of KRS Chapter 230A***; or

(b) Loiters or remains in a public place for the purpose of unlawfully using a controlled substance; or

(c) Loiters or remains in or about a school, college or university building or grounds, not having any reason or relationship involving custody of or responsibility for a pupil or student or any other specific legitimate reason for being there and not having written permission from anyone authorized to grant the same; or

(d) Loiters or remains in any transportation facility, unless specifically authorized to do so, for the purpose of soliciting or engaging in any business, trade or commercial transactions involving the sale of merchandise or services.

(2) Loitering is a violation.

Section 45. KRS 528.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Advancing gambling activity" -- A person "advances gambling activity" when, acting other than as a player, he engages in conduct that materially aids any form of gambling activity. The conduct shall include, but is not limited to, conduct directed toward the establishment of the particular game, contest, scheme, device, or activity involved; toward the acquisition or maintenance of premises, paraphernalia, equipment, or apparatus therefor; toward the solicitation or inducement of persons to participate therein; toward the actual conduct of the playing phases thereof; toward the arrangement of any of its financial or recording phases or toward any other phase of its operation. A person who gambles at a social game of chance on equal terms with other participants does not otherwise advance gambling activity by performing acts, without remuneration or fee, directed toward the arrangement or facilitation of the game as inviting persons to play, permitting the use of premises therefor and supplying equipment used therein.

(2) "Bookmaking" means advancing gambling activity by unlawfully accepting bets upon the outcome of future contingent events from members of the public as a business.

(3) (a) "Gambling" means staking or risking something of value upon the outcome of a contest, game, gaming scheme, or gaming device which is based upon an element of chance, in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome. A contest or game in which eligibility to participate is determined by chance and the ultimate winner is determined by skill shall not be considered to be gambling.

(b) Gambling shall not mean charitable gaming which is licensed and regulated under the provisions of KRS Chapter 238***, or the sale of lottery tickets by a lottery retailer regulated under the provisions of KRS Chapter 154A, or the operation of electronic gaming device games by an electronic gaming device operator licensed and regulated under the provisions of KRS Chapter 230A***.

(4) "Gambling device" means:

(a) Any so-called slot machine or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and which when operated may deliver, as a result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

(b) Any other machine or any mechanical or other device, including but not limited to roulette wheels, gambling tables and similar devices, designed and manufactured primarily for use in connection with gambling and which when operated may deliver, as the result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property;

(c) But, the following shall not be considered gambling devices within this definition:

1. Devices dispensing or selling combination or French pools on licensed, regular racetracks during races on said tracks.

2. Electro-mechanical pinball machines specially designed, constructed, set up, and kept to be played for amusement only. Any pinball machine shall be made to receive and react only to the deposit of coins during the course of a game. The ultimate and only award given directly or indirectly to any player for the attainment of a winning score or combination on any pinball machine shall be the right to play one (1) or more additional games immediately on the same device at no further cost. The maximum number of free

games that can be won, registered, or accumulated at one (1) time in operation of any pinball machine shall not exceed thirty (30) free games. Any pinball machine shall be made to discharge accumulated free games only by reactivating the playing mechanism once for each game released. Any pinball machine shall be made and kept with no meter or system to preserve a record of free games played, awarded, or discharged. Nonetheless, a pinball machine shall be a gambling device if a person gives or promises to give money, tokens, merchandise, premiums, or property of any kind for scores, combinations, or free games obtained in playing the pinball machine in which the person has an interest as owner, operator, keeper, or otherwise.

3. Devices used in the conduct of charitable gaming.

4. Electronic gaming devices operated by an electronic gaming device operator licensed and regulated under the provisions of KRS Chapter 230A.

(5) "Lottery and gift enterprise" means:

(a) A gambling scheme in which:

1. The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other media, one (1) or more of which are to be designated the winning ones; and

2. The ultimate winner is to be determined by a drawing or by some other method based upon the element of chance; and

3. The holders of the winning chances are to receive something of value.

(b) A gift enterprise or referral sales plan which meets the elements of a lottery listed in paragraph (a) of this subsection is to be considered a lottery under this chapter.

(6) "Mutuel" or "the numbers games" means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome or outcomes of a future contingent event or events otherwise unrelated to the particular scheme.

(7) "Player" means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct, or operation of the particular gambling activity. A person who engages in "bookmaking" as defined in subsection (2) of this section is not a "player." The status of a "player" shall be a defense to any prosecution under this chapter.

(8) "Profiting from gambling activity" -- A person "profits from gambling activity" when, other than as a player, he accepts or receives or agrees to accept or receive money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity.

(9) "Something of value" means any money or property, any token, object, or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment, or a privilege of playing at a game or scheme without charge.

(10) "Charitable gaming" means games of chance conducted by charitable organizations licensed and regulated under the provisions of KRS Chapter 238.

(11) "Electronic gaming device games" means games played on electronic gaming devices on the premises of an electronic gaming device operator licensed and regulated in accordance with KRS Chapter 230A.

Section 46. KRS 528.100 is amended to read as follows:

Any gambling device or gambling record possessed or used in violation of this chapter is forfeited to the state, and shall be disposed of in accordance with KRS 500.090, except that the provisions of this section shall not apply to charitable gaming activity as defined by KRS 528.010(10)***, or to electronic gaming device games as defined in subsection (11) of Section 45 of this Act***.

Section 47. KRS 138.510 is amended to read as follows:

(1) Except for the conduct of harness racing at a county fair, an excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky Racing Commission. For each track with a daily average handle of one million two hundred thousand dollars ($1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered during the fiscal year. A fiscal year as used in this subsection and subsection (3) of this section shall begin at 12:01 a.m. July 1 and end at 12 midnight June 30. For each track with a daily average handle under one million two hundred thousand dollars ($1,200,000) the tax shall be an amount equal to one and one-half percent (1.5%) of all money wagered during the fiscal year. However, effective January 1, 2001, if a host track located in this state is the location for the conduct of a one (1) day international horse racing event that distributes in excess of a total of ten million dollars ($10,000,000) in purses, an excise tax shall not be imposed on pari-mutuel wagering on live racing conducted that day at the race track. This tax exemption shall remain in effect for any succeeding one (1) day international horse racing event if the event returns within three (3) years of the previously-held event. For the purposes of this subsection, the daily average handle shall be computed from the amount wagered only at the host track on live racing and shall not include money wagered:

(a) At a receiving track;

(b) At a simulcast facility;

(c) On telephone account wagering; or

(d) At a track participating as a receiving track or simulcast facility displaying simulcasts and conducting interstate wagering as permitted by KRS 230.3771 and 230.3773.

Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the amount of three-quarters of one percent (0.75%) of the total live racing handle for thoroughbred racing and one percent (1%) of the total live handle for harness racing.

(2) An excise tax is imposed on:

(a) All licensed tracks conducting telephone account wagering;

(b) All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the Kentucky Racing Commission; and

(c) All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.

(3) The tax imposed in subsection (2) of this section shall be in the amount of three percent (3%) of all money wagered under subsection (2) of this section during the fiscal year. A noncontiguous track facility approved by the Kentucky Racing Commission on or after January 1, 1999, shall be exempt from the tax imposed under this subsection, if the facility is established and operated by a licensed track which has a total annual handle on live racing of two hundred fifty thousand dollars ($250,000) or less. The amount of money exempted under this subsection shall be retained by the noncontiguous track facility, KRS 230.3771 and 230.378 notwithstanding. ***Beginning July 1, 2002, all licensed standardbred racing tracks and any noncontiguous track facility of such tracks approved by the Kentucky Racing Commission on or after January 1, 1999, shall be exempt from the tax imposed under this subsection, and the amount of money so exempted shall be retained by the track, notwithstanding the provisions of Sections 40 and 41 of this Act.***

(4) An amount equal to two percent (2%) of the amount wagered shall be deducted from the tax imposed in subsection (2) of this section and deposited as follows:

(a) If the money is deducted from taxes imposed under subsection (2)(a) and (b) of this section, it shall be deposited in the thoroughbred development fund if the host track is conducting a thoroughbred race meeting or the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if the host track is conducting a harness race meeting; or

(b) If the money is deducted from taxes imposed under subsection (2)(c) of this section, to the thoroughbred development fund if interstate wagering is conducted on a thoroughbred race meeting or to the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if interstate wagering is being conducted on a harness race meeting.

(5) ***Three-tenths***[~~Two tenths~~] of one percent ***(0.3%)***[~~(0.2%)~~] of the total amount wagered on live racing in Kentucky shall be deducted from the pari-mutuel tax levied in subsection (1) of this section, and ***three-tenths***[~~one twentieth~~] of one percent ***(0.3%)***[~~(0.05%)~~] of the total amount wagered on intertrack wagering shall be deducted for the pari-mutuel tax levied in subsection (2) of this section, and allocated to the equine industry program trust and revolving fund to be used for funding the equine industry program at the University of Louisville.

(6) One-tenth of one percent (0.1%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1), (2), and (3) of this section and deposited to a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subsection shall not replace other funds for capital purposes or operation of equine programs at state universities. The Kentucky Council on Postsecondary Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds. The Kentucky Council on Postsecondary Education may by administrative regulation establish procedures for administering the program and criteria for evaluating and awarding grants.

Section 48. KRS 230.265 is amended to read as follows:

(1) There is hereby created a panel, to be known as the Kentucky Equine Drug Research Council, to advise the commission on the conduct of equine drug research and testing commissioned by the Kentucky Racing Commission. The council shall consist of nine (9) members appointed by the Governor. It is recommended that the Governor appoint one (1) veterinarian from a list of three (3) submitted by the Kentucky Association of Equine Veterinarians, one (1) horseman from a list of three (3) submitted by the Kentucky division of the Horsemen's Benevolent and Protective Association, one (1) pharmacologist from a list of three (3) submitted by the University of Kentucky, one (1) thoroughbred breeder from a list of three (3) submitted by the Kentucky Thoroughbred Owners and Breeders, Inc., one (1) legislator from a list of three (3) submitted by the Legislative Research Commission, one (1) representative of a licensed racing association chosen by the Governor, one (1) member of the harness racing industry from a list of three (3) submitted by the chairman of the Kentucky Racing Commission, one (1) member from a list of three (3) submitted by the Kentucky Harness Horsemen's

Association, and one (1) member of the Kentucky Racing Commission, from a list of three (3) submitted by the chairman of the Kentucky Racing Commission, to serve as chairman. The council shall meet at the call of the chairman, a majority of the council, or at the request of the commission. Members shall serve at the pleasure of their respective sponsoring organizations and shall receive no compensation for serving.

(2) The Kentucky Equine Drug Research Council shall review equine drug research and testing research being conducted at the University of Kentucky or with state funds and shall review and report to the commission on drug research and testing research being conducted elsewhere. The council shall advise the commission and make recommendations for establishing an effective drug regulatory policy for Kentucky racing. In addition, the council shall report to the General Assembly any needed changes regarding the regulation of drugs in horse racing in the Commonwealth of Kentucky.

(3) The commission shall receive ***fifteen-hundredths***[~~one tenth~~] of one percent ***(0.15%)***[~~(0.1%)~~] of the total amount wagered and subject to the pari-mutuel tax levied in KRS 138.510. This money shall be deducted from the pari-mutuel tax levied in KRS 138.510 and shall be used in financing drug research and testing research in Kentucky and shall be in addition to any funds appropriated to the commission for these purposes in the executive budget.

Section 49. KRS 137.990 is amended to read as follows:

(1) (a) Any person who engages in any business or sells or offers to sell or has on hand for the purpose of sale any article or exercises any privilege for which a license is required or imposed by KRS 137.115 before procuring the license and paying the tax shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) for each offense, unless otherwise specifically provided;

(b) Any county clerk who violates any of the provisions of KRS 137.115, or any administrative regulation promulgated by the Revenue Cabinet thereunder, shall be fined not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) for each offense; and

(c) Any person who makes a false statement in securing a license under KRS 137.115 shall be deemed guilty of a misdemeanor.

(2) (a) Any person who violates any provision of KRS 137.120 to 137.160 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180; and

(b) Any person who violates any of the provisions of KRS 137.120 to 137.160 may be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for not less than thirty (30) days nor more than six (6) months, or both.

[~~(3) Any person who violates any of the provisions of KRS 137.170 or 137.180 shall be fined not more than one thousand dollars ($1,000) or imprisoned in the county jail not more than thirty (30) days, or both so fined and imprisoned. If the offender is a corporation, the principal officer or the officer or employee directly responsible for the violation, or both, shall be punished as provided in this subsection.~~]

Section 50. KRS 138.550 is amended to read as follows:

In addition to all other penalties provided in KRS 138.510 to 138.540, when the pari-mutuel system of betting is operated at a track licensed under the provisions of KRS ***Chapter 230***[~~137.170~~], said license may be suspended, revoked or renewal refused by the State Racing Commission upon the failure of the operator to comply with the provisions of KRS 138.510 to 138.540 or the rules and regulations promulgated by the Revenue Cabinet pursuant thereto even though the pari-mutuel system of betting and the track are operated by different persons, corporations or associations.

Section 51. KRS 230.360 is amended to read as follows:

The provisions of this chapter are intended to be statewide and exclusive in their effect and no city, county, or other political subdivision of state government shall have the power or authority to make or enforce any local laws, ordinances, or regulations on the subject of horse race meetings. Any person licensed under KRS 230.300 shall continue to pay, or be responsible for the payment of, all state taxes presently imposed by law, including but without limitation, license taxes imposed under KRS[~~ 137.170 to~~] 137.190, and KRS 137.990 together with admission taxes imposed by KRS 138.480, and the pari-mutuel taxes imposed by KRS 138.510 to 138.550, and all state, as well as local, ad valorem taxes; provided, however, no tax shall be imposed by the state or any subdivision thereof upon, or measured by, that portion of the excise tax imposed upon pari-mutuel betting at running and trotting horse race tracks which is collected and retained by the operators thereof under the provisions of KRS 138.510 to 138.550, both inclusive.

Section 52. KRS 230.380 is amended to read as follows:

(1) Any track licensed by the commission to conduct horse racing and desiring to establish a simulcast facility shall apply for and may receive approval from the commission for each simulcast facility. Prior to considering an application for approval of a simulcast facility, the commission shall notify by regular mail, each state senator, state representative, county judge/executive, and mayor in the jurisdiction in which the proposed simulcast facility is located, at least ten (10) days in advance of the commission meeting at which the application is to be considered or voted upon. Consideration of an application shall be based on criteria contained in administrative regulations promulgated under KRS 230.300. Approval, if granted, shall be granted for a term of one (1) calendar year.

(2) A track or tracks may proceed with the establishment of a simulcast facility unless, within sixty (60) days of the date on which the commission approved the facility, the governing body of the local government jurisdiction in which the facility

is to be located votes, by simple majority of those voting, to disapprove the establishment of the simulcast facility. For the purposes of this section, "governing body" means, in an incorporated area, the board of aldermen, city council or board of commissioners; in a county, the fiscal court; in an urban-county government, the urban-county council, or in a charter county, the legislative body created in accordance with KRS 67.825 to 67.875.

(3) The commission shall not approve the establishment of any simulcast facility within a radius of fifty (50) miles of a licensed track. The commission may approve the establishment of one (1) simulcast facility within a radius of greater than fifty (50) miles but less than seventy-five (75) miles of a licensed track, but the facility shall not be approved to operate without the prior written consent of the licensed track within whose seventy-five (75) mile radius the facility is located.

(4) The commission may promulgate administrative regulations as it deems appropriate to protect the integrity of pari-mutuel wagering at any simulcast facility.

(5) Licensed tracks conducting horse racing may enter into joint agreements to establish or operate one (1) or more simulcast facilities, on terms and conditions as the participating tracks may determine. Any agreements respecting these arrangements shall be filed with the commission, and applications for simulcast facilities shall be filed by and licenses may be issued to, these licensed tracks by the commission.

(6) A simulcast facility may be established and operated on property that is owned or leased and which is not used solely for the operation of a simulcast facility; provided however, that a simulcast facility may not be established on the premises of a lottery vendor.

(7) A simulcast facility shall not be subject to and shall not pay any excise tax imposed pursuant to KRS 138.510~~[, any license tax imposed under KRS 137.170,]~~ or any admission tax imposed under KRS 138.480.

(8) One percent (1%) of all moneys wagered at a simulcast facility shall be dedicated for local economic development and shall be allocated as follows:

(a) If a simulcast facility is located in an incorporated area, seventy-five percent (75%) shall be allocated to the governing body of the city in which the facility is located, and twenty-five percent (25%) to the governing body of the county in which the facility is located.

(b) If a simulcast facility is located in an unincorporated area, all moneys shall be allocated to the governing body of the county or charter county in which the facility is located.

(9) (a) After the deduction of moneys under subsection (8), simulcast facility shall deduct a commission allowed under KRS 230.3615 with respect to all wagers made at the simulcast facility. The commission, less moneys allocated in subsection (8) of this section, shall be split as follows:

1. Thirty percent (30%) shall be allocated to the host track;

2. Forty-six and one-half percent (46.5%) to the purse program at the host track;

3. Thirteen and one-half percent (13.5%) to be retained by the track or tracks owning the simulcast facility for the purpose of application to expenses incurred in connection therewith;

4. Six percent (6%) to be allocated to the Kentucky Thoroughbred Owners and Breeders, Inc., to be expended as follows:

a. Up to three percent (3%) for capital improvements and promotion of off-track betting; and

b. The remainder for marketing and promoting the Kentucky thoroughbred industry; and

5. .Four percent (4%) to be allocated to the commission to be used for purses at county fairs in Kentucky licensed and approved by the commission, and for the standardbred sires stakes program established under KRS 230.770.

(b) The commission of a simulcast facility derived from interstate wagering shall be reduced by any amounts required to be paid by contract to the host track or track conducting the live race before it is divided as set forth in this section. No simulcast facility may receive any interstate simulcast except with the approval of the live Kentucky host track.

(c) The Kentucky Thoroughbred Owners and Breeders, Inc., shall annually report to the commission on all money expended in accordance with subsection (9)(a)4. of this section. The report shall be in the form required, and provide all information required by the commission.

(10) Subsections (1) and (2) of this section shall also apply to the establishment by a track of a noncontiguous facility in a county in which pari-mutuel racing and wagering is not being conducted. Subsection (8) of this section shall also apply to a noncontiguous race track facility referenced in this subsection, unless there is a written agreement to the contrary between the track establishing the facility and the governing body of the local government jurisdiction in which the facility is to be established.

Section 53. KRS 230.550 is amended to read as follows:

(1) There is hereby established an Equine Industry Program at the University of Louisville, under the general control and direction of the university. The purpose of the Equine Industry Program is to provide training and educational opportunities in the horse racing industry relating to, but not limited to, finance, management, marketing, regulation and

administration aspects of the horse racing industry, in accordance with the industry needs as determined by the university.

(2) There is hereby created a trust and revolving fund for the Equine Industry Program, consisting of money allocated to the fund together with money as may be contributed to the fund from all other sources. Money to the credit of the Equine Industry Program fund at the end of each fiscal year shall not lapse but shall be carried forward to the succeeding fiscal year. Money from the Equine Industry Program fund shall be administered by the University of Louisville and shall be allocated for the funding of the Equine Industry Program.

(3) ***State moneys allocated to the equine program under Section 47 of this Act shall be used for the following purposes only:***

- ***(a) The education of students, which shall be broadly defined as programs and services that improve the education afforded students and the quality of the equine program and shall include but not be limited to the recruitment and retention of students, the awarding of scholarships, and the quality of instruction provided by staff and faculty;***
- ***(b) The conduct of surveys on equine issues; and***
- ***(c) The conduct of symposiums and seminars on issues affecting the racing industry.***

(4) An annual symposium that promotes Kentucky's preeminence in the horse industry shall be held in the Commonwealth and shall be approved by a fifteen (15) member committee consisting of the following membership:

- ***(a) One (1) member who shall be the President of the University of Louisville or his or her designee;***
- ***(b) One (1) member who shall be appointed by the Speaker of the Kentucky House of Representatives;***
- ***(c) One (1) member who shall be appointed by the President of the Kentucky Senate;***
- ***(d) One (1) member who shall be appointed by the thoroughbred racetracks licensed under this chapter;***
- ***(e) One (1) member who shall be appointed by the harness racetracks licensed under this chapter;***
- ***(f) One (1) member who shall be appointed by the Horseman's Benevolent Protective Association;***
- ***(g) One (1) member who shall be appointed by the Kentucky Thoroughbred Association;***
- ***(h) One (1) member who shall be appointed by the Kentucky Harness Horsemen's Association;***
- ***(i) One (1) member who shall be appointed by the Kentucky Racing Commission;***
- ***(j) One (1) member who shall be appointed by the thoroughbred breeders' associations and organizations;***
- ***(k) One (1) member who shall be appointed by the harness horse breeders' associations and organizations;***
- ***(l) One (1) member who shall be appointed by Appaloosa racing, quarter horse, Arabian, and point associations and organizations; and***
- ***(m) Three (3) at-large members who shall be appointed by the Governor.***

(5) The president of the University of Louisville or his or her designee shall serve as chairman. Staff services shall be provided by the University of Louisville. Committee members shall serve at no cost and shall not be reimbursed for expenses from the funds allocated to the Equine Industry Program. If an appointment is to be made by multiple groups, associations, organizations, or tracks who are unable to agree on a representative, the position shall remain vacant until the applicable groups, associations, organizations, or tracks are able to agree on the representative. Appointed members shall serve a four (4) year term. No appointed member may serve more than two (2) consecutive terms.

(6) In overseeing and approving the seminars under subsection (4) of this section, the committee shall have authority over the annual symposium's time and location, the issues to be covered, the agenda, and other matters that the committee deems reasonable.

(7) The president of the University of Louisville or his or her designee shall have broad authority in conforming the Equine Industry Program to the provisions of this section, and notwithstanding other provisions of the Kentucky Revised Statutes may make such changes as needed to meet the requirements of this section.

(8) The University of Louisville shall utilize personnel and facilities of the University of Kentucky when appropriate for assistance in any cooperative undertakings the University of Louisville may wish to enter into with the University of Kentucky relating to the Equine Industry Program.

Section 54. Immediately after the effective date of this Act, representatives of the Kentucky Racing Commission established under KRS Chapter 230, the Kentucky Lottery Corporation established under KRS Chapter 154A, the Lottery Corporation operating under Section 3 of this Act, the Department of Charitable Gaming, and representatives from any other state agency that disburses or dedicates money for the prevention, education, or treatment of problem gamblers shall meet and establish a unified and comprehensive approach for the prevention, education, and treatment of problem gambling. This unified approach shall also be prepared in the form of a written report, which shall be submitted to the Legislative Research Commission no later than one hundred and twenty (120) days prior to the next regular legislative session. The report shall outline the comprehensive approach established for dealing with problem gambling and shall contain any proposed legislative changes that are deemed necessary to enhance the quality of prevention, education, and treatment of problem gambling in the Commonwealth.

Section 55. If any clause, sentence, paragraph, or other part of this Act shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid or unenforceable, that judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph, or other part of this Act directly involved in the controversy in which that judgment shall have been rendered.

Section 56. The following KRS sections are repealed:

137.170 Tentative state license tax on race meetings.

137.180 Report and payment of tentative state license tax -- Civil penalty for nonpayment.

Section 57. Whereas the state has a need for new revenue, and it is increasingly difficult for the racing industry to compete with increased gaming opportunities in neighboring states, and the operation of electronic gaming device games at licensed racetracks would generate new revenue for the state, help keep racing viable, and protect the substantial economic contribution the racing industry makes to the Commonwealth of Kentucky, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law."

Floor Amendment No. 22 Title to **HB 768**, by Representative Callahan:

By amending the title to read as follows: "AN ACT relating to electronic gaming at racetracks as a part of the state lottery, making an appropriation therefor, and declaring an emergency."

Floor Amendment No. 1 to the Committee Substitute to **HB 838**, by Representative Treesh:

On page 1, line 13, after "***adjusted***" by inserting "***to***" and deleting the remainder of the line in its entirety; and

On page 1, line 14, by deleting "***(a) Include***" and insert in lieu thereof "***include***"; and

On page 1, line 19. by deleting "***and***"; and

On page 1, beginning on line 20 and ending on line 24 by deleting the language in its entirety.

Floor Amendment No. 1 to the Committee Substitute to **HB 825**, by Representative Damron:

On page 51, between lines 21 and 22, insert the following:

"Section 23. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;

(9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;

(10) Machinery for new and expanded industry;

(11) Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the

occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(12) Property which has been certified as a pollution control facility as defined in KRS 224.01-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1994;

(13) Tombstones and other memorial grave markers;

(14) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(15) On-farm facilities used exclusively for raising poultry or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply, but not be limited to, vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(16) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively and directly to:

(a) Operate farm machinery as defined in subsection (11) of this section;

(b) Operate on-farm grain or soybean drying facilities as defined in subsection (14) of this section;

(c) Operate on-farm poultry or livestock facilities defined in subsection (15) of this section;

(d) Operate-on farm ratite facilities defined in subsection (24) of this section;

(e) Operate on-farm llama or alpaca facilities as defined in subsection (26) of this section; or

(f) Operate on-farm dairy facilities;

(17) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(18) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(19) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

(20) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(21) Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, 1994;

(22) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;

(23) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;

(24) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(25) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming;

(26) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(27) Baling twine and baling wire for the baling of hay and straw;

(28) Water sold to a person regularly engaged in the business of farming and used in the:

(a) Production of crops;

(b) Production of milk for sale; or

(c) Raising and feeding of:

1. Livestock or poultry, the products of which ordinarily constitute food for human consumption; or

2. Ratites, llamas, alpacas, buffalo, or aquatic organisms;

(29) Buffalos to be used as beasts of burden or in an agricultural pursuit for the production of hides, breeding stock, meat, and buffalo by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;~~[and]~~

(30) Aquatic organisms sold directly to or raised by a person regularly engaged in the business of producing products of aquaculture, as defined in KRS 260.960, for sale, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Water;

(c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and

(d) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities and, any gasoline, special fuels, liquified petroleum gas, or natural gas used to operate the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities***; and***

(31) Clothing, school supplies, or computers, printers, or software, sold but not rented between 12:01 a.m. on the first Monday in August and 12 midnight at the end of the following Sunday of each year. In this subsection:

(a) "Clothing" means all human wearing apparel suitable for general use. "Clothing" includes, but is not limited to, pants, shirts, jackets, hats, undergarments, gloves, scarves, belts, and footwear. "Clothing" does not include clothing accessories or equipment, sport or recreational equipment, or protective equipment. As used in this paragraph:

1. "Clothing accessories or equipment" means incidental items worn on the person or in conjunction with clothing and includes, but is not limited to, jewelry, cosmetics, handbags, hair notions, and hairpieces;

2. "Sport or recreational equipment" means items worn in conjunction with an athletic or recreational activity that are not suitable for general use and includes, but is not limited to, cleated or spiked shoes, baseball gloves, shoulder pads, and ski boots; and

3. "Protective equipment" means items designed to protect the wearer or other persons against injury or

disease or to protect property from injury or damage but not suitable for general use and includes, but is not limited to, helmets, hard hats, and protective gloves;

(b) "School supplies" means items normally carried by a student to school or items used in the classroom or at home with respect to school assignments. "School supplies" includes, but is not limited to, writing supplies, books, calculators, backpacks, lunch boxes, and binders; and

(c) "Computers, printers, or software" means personal computers, printers, laptops, personal digital assistants, or software purchased by an individual for nonbusiness use.

The cabinet shall modify the definitions in paragraphs (a) to (c) of this subsection as needed to correspond with changes that may be adopted by the Streamlined Sales Tax Project by promulgating administrative regulations in accordance with KRS Chapter 13A. Notwithstanding KRS Chapter 13A, the cabinet may issue educational bulletins to enhance the understanding of and compliance with this subsection. These bulletins may list additional examples of taxable and exempt items in accordance with the definitions in paragraphs (a) to (c) of this subsection.

Section 14. KRS 139.210 is amended to read as follows:

(1) The taxes herein imposed shall be collected by the retailer from the consumer. ***However, retailers may pay the tax imposed by KRS 139.200 without collecting the tax from the consumer on any item sold between 12:01 am on the first Monday in August and 12 midnight at the end of the following Sunday of each year.***

(2) Except as provided in subsection (3) of this section, the tax required to be collected by the retailer from the consumer shall be displayed separately from the sales price, the price advertised in the premises, the marked price, or other price on the sales receipt or other proof of sales.

(3) The cabinet may relieve certain retailers from the provisions of subsection (2) of this section of separate display of the tax when the circumstances of the retailer make compliance impracticable.

(4) The taxes collected under this section shall be deemed to be held in trust by the retailer for and on account of the Commonwealth of Kentucky.

(5) The taxes to be collected ***or paid by the retailer*** under this section shall constitute a debt of the retailer to the Commonwealth.

(6) Any retailer who elects to pay the tax without collecting it from the consumer, as provided in subsection (1) of this section, shall not include the tax in the sales price, the price advertised, the marked price, or any price on the sales receipt or other proof of sales.

Section 25. KRS 139.220 is amended to read as follows:

(1) Except as it pertains to items to be sold between 12:01 am on the first Monday in August and 12 midnight at the end of the following Sunday of each year, it is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax levied by KRS 139.200 or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added it or any part thereof will be refunded.

(2) Any retailer who advertises as permitted by subsection (1) of this section shall clearly state the items or categories and the period during which the retailer will absorb the tax."; and

Renumber subsequent sections accordingly.

Floor Amendment No. 1 Title to **SB 150**, by Representative Burch:

By amending the title to read as follows:

"AN ACT relating to oral health care.".

Floor Amendment No. 2 to the Committee Substitute to **HB 825**, by Representative Feeley:

On page 51, after line 21, by inserting the following:

"Section 23. KRS 142.050 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Deed" means any document, instrument, or writing other than a will and other than a lease or easement, regardless of where made, executed, or delivered, by which any real property in Kentucky, or any interest therein, is conveyed, vested, granted, bargained, sold, transferred, or assigned***; and***~~[.]~~

(b) "Value" means:

1. In the case of any deed not a gift, the amount of the full actual consideration therefor, paid or to be paid, including the amount of any lien or liens thereon; and

2. In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated

price the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

(2) ***(a)*** A tax upon the grantor named in the deed shall be imposed at the rate of fifty cents ($0.50) for each ***five hundred dollars (***$500***)*** of value or fraction thereof, which value is declared in the deed upon the privilege of transferring title to real property.

(b) The fiscal court of a county which does not levy an occupational license fee imposed by KRS 68.180 or 68.197 or the legislative body of an urban-county government which does not levy an occupational license fee imposed by KRS 92.280 may levy a surtax upon the grantor in the deed at a rate not to exceed two dollars ($2) for each five hundred dollars ($500) of value or fraction thereof, which value is declared in the deed upon the privilege of transferring title to real property.

(c) A school district which does not levy an occupational license fee imposed by KRS 160.605 may levy a surtax upon the grantor in the deed at a rate not to exceed two dollars ($2) for each five hundred dollars ($500) of value or fraction thereof, which value is declared in the deed upon the privilege of transferring title to real property. Moneys received under this paragraph shall only be used for school construction, maintenance, or construction debt service.

(3) (a) If any deed evidencing a transfer of title subject to the tax herein imposed is offered for recordation, the county clerk shall ascertain and compute the amount of the tax due thereon and shall collect the amount as prerequisite to acceptance of the deed for recordation.

(b) The amount of tax shall be computed on the basis of the value of the transferred property as set forth in the deed.

(c) The tax required to be levied by this section shall be collected only once on each transaction and in the county in which the deed is required to be recorded by KRS 382.110(1).

(4) The county clerk shall collect the amount due and certify the date of payment and the amount of collection on the deed. The county clerk shall retain five percent (5%) ***of the tax collected under paragraph (2)(a) of this section and four-tenths percent (0.4%) of the tax collected under paragraph (2)(b) of this section*** as ***a***[~~this~~] fee for collection and remit the balance every three (3) months to the county treasurer, who shall deposit the money in the county general fund. ***The county clerk shall retain four-tenths percent (0.4%) of the tax collected under paragraph (2)(c) of this section as a fee for collection and remit the balance every three (3) months to the school district.***

(5) The Revenue Cabinet may prescribe regulations necessary to carry out the purposes of this section.

(6) Any county clerk who willfully shall record any deed upon which a tax is imposed by this section without collecting the proper amount of tax and certifying the date and amount of collection on the deed as required by this section based on the declared value indicated in the affidavit appended to the deed shall, upon conviction, be fined ***fifty dollars (***$50***)*** for each offense.

(7) The tax imposed by this section shall not apply to a transfer of title:

(a) Recorded prior to March 27, 1968;

(b) To, in the event of a deed of gift or deed with nominal consideration, or from the United States of America, this state, any city or county within this state, or any instrumentality, agency, or subdivision ***thereof***[~~hereof~~];

(c) Solely in order to provide or release security for a debt or obligation;

(d) Which confirms or corrects a deed previously recorded;

(e) Between husband and wife, or between former spouses as part of a divorce proceeding;

(f) On sale for delinquent taxes or assessments;

(g) On partition;

(h) Pursuant to:

1. Merger or consolidation between and among corporations, partnerships, including registered limited liability partnerships, limited partnerships, or limited liability companies; or

2. The conversion of a general partnership, including a registered limited liability partnership, or a limited partnership into a limited liability company;

(i) Between a subsidiary corporation and its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of either corporation's stock;

(j) Under a foreclosure proceeding;

(k) Between a person and a corporation, general partnership, limited partnership, registered limited liability partnership, or limited liability company in an amount equal to the portion of the value of the real property transferred that represents the proportionate interest of the transferor of the property in the entity to which the property was transferred, if the transfer was for nominal consideration;

(l) Between parent and child or grandparent and grandchild, with only nominal consideration therefor;

(m) By a corporation, general partnership, limited partnership, registered limited liability partnership, or limited liability company to a person as owner or shareholder of the entity, upon dissolution of the entity, in an amount equal to the portion of the value of the real property transferred that represents the proportionate interest of the person to whom the property was transferred, if the transfer was for nominal consideration;

(n) Between a trustee and a successor trustee; and

(o) Between a limited liability company and any of its members.

(8) The tax imposed by subsection (2) of this section shall not apply to transfers to a trustee, to be held in trust, or from a trustee to a beneficiary of the trust if:

(a) The grantor is the sole beneficiary of the trust;

(b) The grantor is a beneficiary of the trust and a direct transfer from the grantor of the trust to all other individual beneficiaries of the trust would have qualified for an exemption from the tax pursuant to one (1) of the provisions of subsection (7) of this section; or

(c) A direct transfer from the grantor of the trust to all other individual beneficiaries of the trust would have qualified for an exemption from the tax pursuant to one (1) of the provisions of subsection (7) of this section.

(9) As used in this section, "trust" shall have the same definition as contained in KRS 386.800."; and

By renumbering subsequent sections accordingly.

Floor Amendment No. 1 to the Committee Substitute to **HB 600**, by Representative Webb:

On page 1, line 5, by deleting "***using state***" and inserting in lieu thereof "***owned or leased by a state agency***"; and

On page 1, line 6, by deleting "***funds***"; and

On page 1, line 7, by deleting "***using state funds***" and inserting in lieu thereof "***for facilities owned or operated by a state agency***".

Floor Amendment No. 2 to the Committee Substitute to **HB 600**, by Representative Damron:

On page 4, line 3, after the semicolon "***;***" by inserting "***and***"; and

On page 4, line 4, after "***(f)***" by deleting the remainder of the line in its entirety; and

On page 4, line 5, by deleting "***(g)***".

Floor Amendment No. 23 to the Committee Substitute to **HB 768**, by Representative J. Turner:

On page 59, line 22, after the period "***.***" by inserting the following:

"***For each fiscal year an amount equal to the coal severance and processing tax levied under KRS 143.020 shall be retained in the general fund. One and seventy-five hundredths of a percent (1.75%) of the funds described in this paragraph shall be appropriated from the general fund to the wood products development fund created by KRS 154.47-070 and the remainder shall be appropriated as follows:***"; and by deleting the remainder of the line in its entirety

On page 59, line 23, by deleting the line in its entirety and

On page 60, between lines 25 and 26 by inserting the following:

"***Notwithstanding the provisions of KRS 42.4582. 42.4585, 42.4586, and 42.4592, one hundred percent (100%) of the coal severance and processing tax levied under KRS 143.020 shall be deposited to the local government economic development fund created under KRS 42.4582 and fifteen percent (15%) shall be transferred to the local government economic assistance fund. No coal severance tax money shall be deposited to the wood products development fund.***".

Floor Amendment No. 1 to the Committee Substitute to **SB 13**, by Representative Thomas:

On page 4, line 23, after "***produced***", by inserting "***if the vendor is the producer or packager of the product or, if the vendor is not the producer or packager, provided the information is available to the vendor from the producer or packager of the product.***"; and

On page 4, line 23, by deleting "***and***", and by inserting in lieu thereof, "***The producer or packager shall***".

Floor Amendment No. 24 to **HB 768**, by Representative Riner:

On page 106, between lines 17 and 18, by inserting the following:

"SECTION 58. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

Whereas the General Assembly finds that it is in the public interest for all citizens of the Commonwealth to appreciate the virtues associated with hard work and the dangers and consequences of participation in gambling activities, including electronic gaming, which has been known to undermine the fiscal and social responsibility of individuals, the integrity of families, and the ethos of communities through gambling addictions and crimes relating to those addictions. In order to warn Kentucky's youth of the destructive impact of gambling, the Kentucky Board of Education shall promulgate an administrative regulation that prescribes the local district responsibilities and the essential elements that shall be integrated into the K-12 curriculum, including but not limited to understanding fiscal responsibility, mathematical odds and the consequences of gambling addictions.";

On page 106, line 18, by renumbering "Section 58." to "Section 59.";

On page 106, line 24, by renumbering "Section 59." to "Section 60.";

Floor Amendment No. 25 to **HB 768**, by Representative Riner:

On page 1, line 11, by deleting "*and*";

On page 1, line 14, after "*exist*" by inserting "*; and*";

On page 1, between lines 14 and 15 by inserting

"*(c) Provide that the Gaming Commission and the Kentucky Lottery Corporation work together to ensure that each electronic gaming device is equipped with a highly visible sign reading: "WARNING: Electronic gaming devices have been associated with the undermining of individual fiscal and social responsibility, as well as having a destructive impact on the families and children of those who participate in electronic gaming activities."*".

Floor Amendment No. 26 to the Committee Substitute to **HB 768**, by Representative S. Lee:

On page116, line 27, by deleting the line in its entirety and inserting the following in lieu thereof:

"Section 64. Notwithstanding KRS 446.090 or any other provisions to the contrary, if any provision of this Act or the application thereof is held invalid or unconstitutional by a court of competent jurisdiction, the invalidity or unconstitutionality shall cause all other provisions and applications of this Act to likewise be invalid or unconstitutional, and to this end, the provisions of this Act are nonseverable."; and

On page 117, lines 1 through 5, by deleting the lines in their entirety.

Floor Amendment No. 27 to House Floor Amendment 21 to the Committee Substitute to **HB 768**, by Representative S. Lee:

On page 110, lines 25 and 26, by deleting the lines in their entirety and inserting the following in lieu thereof:

"Section 55. Notwithstanding KRS 446.090 or any other provisions to the contrary, if any provision of this Act or the application thereof is held invalid or unconstitutional by a court of competent jurisdiction, the invalidity or unconstitutionality shall cause all other provisions and applications of this Act to likewise be invalid or unconstitutional, and to this end, the provisions of this Act are nonseverable."; and

On page 111, lines 1 through 3, by deleting the lines in their entirety.

Floor Amendment No. 28 to House Floor Amendment 21 to **HB 768**, by Representative Marcotte:

On page 1, line 2, delete "117, line 16" and insert "111, line 13"; and

On page 1, line 3, to page 111, line 13, delete all language and insert the following in lieu thereof:

"Section 1. It is proposed that Section 226 of the Constitution of Kentucky be amended to read as follows:

(1) The General Assembly may establish a Kentucky state lottery and may establish a state lottery to be conducted in cooperation with other states. Any lottery so established shall be operated by or on behalf of the Commonwealth of Kentucky.

(2) The General Assembly may by general law permit charitable lotteries and charitable gift enterprises and, if it does so, it shall:

(a) Define what constitutes a charity or charitable organization;

(b) Define the types of charitable lotteries and charitable gift enterprises which may be engaged in;

(c) Set standards for the conduct of charitable lotteries and charitable gift enterprises by charitable organizations;

(d) Provide for means of accounting for the amount of money raised by lotteries and gift enterprises and for assuring its expenditure only for charitable purposes;

(e) Provide suitable penalties for violation of statutes relating to charitable lotteries and charitable gift enterprises; and

(f) Pass whatever other general laws the General Assembly deems necessary to assure the proper functioning, honesty, and integrity of charitable lotteries and charitable gift enterprises, and the charitable purposes for which the funds are expended.

(3) ***The General Assembly may by general law permit the operation of video lottery terminals at racetracks, and, if it does so, shall:***

(a) Provide a means whereby the sense of the people of Kentucky shall be taken, prior to the institution of video lottery terminals at racetracks, whether video lottery terminals at racetracks shall be allowed by submission to the voters of this state for their ratification or rejection by a majority of the votes cast at a general election in such manner as shall be provided by law; and

(b) Pass general laws to ensure the proper functioning, honesty, and integrity of video lottery terminals at racetracks and the organizations conducting video lottery terminals at racetracks.

(4) Except as provided in this section, lotteries and gift enterprises are forbidden, and no privileges shall be granted for such purposes, and none shall be exercised, and no schemes for similar purposes shall be allowed. The General Assembly shall enforce this section by proper penalties. All lottery privileges or charters heretofore granted are revoked.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.".

Floor Amendment No. 6 to **SB 197**, by Representative Stumbo:

On page 2, line 27, after the "*(4)*" delete that line in its entirety; and

On page 3, delete lines 1 through 4; and

On page 3, line 5, delete the "*(5)*"; and

On page 3, line 7, delete the "*(6)*" and insert in lieu thereof "*(5)*".

Floor Amendment No. 1 to the Committee Substitute to **SB 55**, by Representative Burch:

On page 4, between lines 24 and 25, by inserting the following:

"***(6) Sections 1, 2, 3, 4, 5, and 6 of this Act shall be known as "The Representative Thomas J. Burch Safe Infants Act".***".

Floor Amendment No. 29 to the Committee Substitute to **HB 768**, by Representative Ballard:

On page 60, between lines 15 and 16, by inserting the following new subparagraph:

"***6. Eight percent (8%) to the Department of Veterans' Affairs established in KRS 40.300 to support the Kentucky state veterans' cemeteries, Kentucky state veterans' nursing homes, the Kentucky Homeless Veterans Program, and other programs which meet the needs of veterans of the Armed Forces; and***" and

On page 60, line 16, by deleting "***6. Twenty-five percent (25%)***" and inserting "***7. Twenty-two percent (22%)***" in lieu thereof; and

On page 60, line 21, by deleting "***7. Fifteen percent (15%)***" and inserting "***8. Ten percent (10%)***" in lieu thereof.

Floor Amendment No. 30 to House Floor Amendment 21 to the Committee Substitute to **HB 768**, by Representative Ballard:

On page 34, between lines 17 and 18, by inserting the following new subparagraph:

"***e. Eight percent (8%) to the Department of Veterans' Affairs established in KRS 40.300 to support the Kentucky state veterans' cemeteries, Kentucky state veterans' nursing homes, the Kentucky Homeless Veterans Program, and other programs which meet the needs of veterans of the Armed Forces; and***" and

On page 34, line 18, by deleting "***e. Twenty-five percent (25%)***" and inserting "***f. Twenty-two percent (22%)***" in lieu thereof; and

On page 34, line 23, by deleting "***f. Fifteen percent (15%)***" and inserting "***g. Ten percent (10%)***" in lieu thereof.

Floor Amendment No. 32 to the Committee Substitute to **HB 768**, by Representative Gray:

On page 1, line 1, to page 117, line 16 to delete the same and to insert in lieu thereof:

"Section 1. It is proposed that Section 226 of the Constitution of Kentucky be amended to read as follows:

(1) The General Assembly may establish a Kentucky state lottery and may establish a state lottery to be conducted in cooperation with other states. Any lottery so established shall be operated by or on behalf of the Commonwealth of Kentucky.

(2) The General Assembly may by general law permit charitable lotteries and charitable gift enterprises and, if it does so, it shall:

(a) Define what constitutes a charity or charitable organization;

(b) Define the types of charitable lotteries and charitable gift enterprises which may be engaged in;

(c) Set standards for the conduct of charitable lotteries and charitable gift enterprises by charitable organizations;

(d) Provide for means of accounting for the amount of money raised by lotteries and gift enterprises and for assuring its expenditure only for charitable purposes;

(e) Provide suitable penalties for violation of statutes relating to charitable lotteries and charitable gift enterprises; and

(f) Pass whatever other general laws the General Assembly deems necessary to assure the proper functioning, honesty, and integrity of charitable lotteries and charitable gift enterprises, and the charitable purposes for which the funds are expended.

(3) ***The General Assembly may permit gaming within the Commonwealth of Kentucky by general law.***

(4) Except as provided in this section, lotteries and gift enterprises are forbidden, and no privileges shall be granted for such purposes, and none shall be exercised, and no schemes for similar purposes shall be allowed. The General Assembly shall enforce this section by proper penalties. All lottery privileges or charters heretofore granted are revoked.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415. The question submitted to the voters shall read as follows: "Do you favor giving the General Assembly of the Commonwealth of Kentucky the authority to enact various forms of gaming to be conducted within the Commonwealth of Kentucky?"."

Floor Amendment No. 31 to House Floor Amendment 21 to the Committee Substitute to **HB 768**, by Representative Heleringer:

On page 33, between lines 19 and 20, by inserting the following:

"***(f) After payment of the costs and expenses described in paragraph (c) of this subsection, an amount equal to one-half of one percent (0.5%) of the annual gaming income shall be deposited by the Lottery Corporation into the Kentucky Race Track Retirement Plan established under KRS 230.375.***; and

On page 33, line 20, delete "***(f)***" and insert in lieu thereof "***(g)***"; and

On page 33, line 21, delete "***(e)***" and insert in lieu thereof "***(f)***"; and

On page 110, between lines 11 and 12, by inserting the following:

"Section 54. KRS 230.375 is amended to read as follows:

(1) The board of directors of the Kentucky Racing Health and Welfare Fund, Inc., ***shall***~~[may]~~ create and fund the Kentucky Race Track Retirement Plan. The board shall use no more than twenty-five percent (25%) of the annual sum paid by the commission under KRS 230.361 to 230.373 to fund the plan. ***The board shall also use the amount of the annual gaming income specified under paragraph (f) of subsection (1) of Section 14 of this Act to fund the plan. No more than ten percent (10%) of the moneys allocated under this subsection shall be used to administer the plan.***

(2) The plan shall be provided for the benefit of thoroughbred ***and standardbred*** trainers, assistant trainers, exercise riders, grooms, stable attendants, ~~[and]~~other stable employees***, and racing officials*** who can demonstrate that they are not otherwise eligible to participate in any other private or public, nonself-funded retirement or pension plan.

(3) The Kentucky Race Track Retirement Plan shall be administered by the board of directors of the Kentucky Racing Health and Welfare Fund, Inc., for the charitable and benevolent purposes set forth in KRS 230.374, and no part of the sums administered by the fund for the plan or any net earnings of the plan shall inure to the benefit of any private individual, director, officer, or member of the fund, or any of the persons who paid sums to the commission under the provisions of KRS 230.361 to 230.373.

(4) The board of directors of the Kentucky Racing Health and Welfare Fund, Inc., shall be the trustee of the plan's funds and shall have full power to invest and reinvest funds. Investments shall be diversified to balance the risks associated with various investment options to maintain the long-term solvency of the plan. The board shall have full power to hold, purchase, sell, assign, transfer, or dispose of any of the investments in which any of the plan's funds have been invested, as well as of the proceeds of investments belonging to the plan. The board members or any investment manager shall discharge their duties with respect to the assets of the plan solely in the interest of the plan's members and:

(a) For the exclusive purposes of providing benefits to plan members and their beneficiaries and defraying reasonable expenses of administering the plan;

(b) With the care, skill, prudence, and diligence under the circumstances that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims; and

(c) In accordance with any other laws or instruments governing the administration of the plan's funds."; and

Renumber subsequent sections accordingly.

Floor Amendment No. 1 to **SCR 185**, by Representative Marzian:

On page 2, line 26, after "ombudsman;" by deleting "and";

On page 2, line 27, after "(10)" by inserting "Kentucky Coalition of Nurse Practitioners and Nurse Midwives; and (11)".

Floor Amendment No. 3 to the Committee Substitute to **HB 825**, by Representative Hoover:

On page 30, by deleting lines 12 to 27 in their entirety;

On pages 31 to 33, by deleting all lines in their entirety;

On page 34, by deleting lines 1 to 22 in their entirety;

By renumbering subsequent sections accordingly;

On page 41, line 16, by deleting "*17*" and inserting in lieu thereof "*16*";

On page 47, line 19, by deleting "*15*" and inserting in lieu thereof "*14*".

Floor Amendment No. 33 Title to **HB 768**, by Representative Gray:

By amending the title to read "AN ACT proposing to amend Section 226 of the Constitution of Kentucky relating to gaming."

Floor Amendment No. 1 to the Committee Substitute to **SB 227**, by Representative Riner:

On page 2, below line 14, to insert the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 503 IS CREATED TO READ AS FOLLOWS:

In addition to any other use of force which a defendant may use pursuant to this chapter:

(1) An adult female may slap an adult male who makes an unwelcome sexual remark to her;

(2) The use of force pursuant to this section shall not include the use of deadly force unless the use of deadly force is justified under another provision of this chapter."

Floor Amendment No. 2 to the Committee Substitute to **SB 227**, by Representative Riner:

On page 2, below line 14, to insert the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 503 IS CREATED TO READ AS FOLLOWS:

In addition to any other use of force which a defendant may use pursuant to this chapter:

(1) An adult female may use force to repel sexual harassment or unwanted touching of her body by an adult male;

(2) The use of force pursuant to this section shall not include the use of deadly force unless the use of deadly force is justified under another provision of this chapter."

Floor Amendment No. 34 to House Floor Amendment 21 to the Committee Substitute to **HB 768**, by Representative Heleringer:

On page 34, line 10, after "*services*" by inserting the following: "***. Of those moneys going to health and human services, one million dollars ($1,000,000) shall be allocated to the supported living services program under KRS 210.770 to 210.795 and one million dollars ($1,000,000) shall be allocated to the personal care assistance program under KRS 205.900 to 205.920. If in any year the funds available under this subdivision increase over those availble in the previous year, the fund shall be adjusted upwardly to correspond with the increase.***".

Floor Amendment No. 35 to House Floor Amendment 21 to the Committee Substitute to **HB 768**, by Representative Lindsay:

On page 1, line 1, to page 111, line 13 to delete the same and to insert in lieu thereof:

"On page 1, line 1, to page 117, line 16, by deleting same and inserting in lieu thereof the following:

'Section 1. It is proposed that Section 226 of the Constitution of Kentucky be amended to read as follows:

(1) The General Assembly may establish a Kentucky state lottery and may establish a state lottery to be conducted in cooperation with other states. Any lottery so established shall be operated by or on behalf of the Commonwealth of Kentucky.

(2) The General Assembly may by general law permit charitable lotteries and charitable gift enterprises and, if it does so, it shall:

(a) Define what constitutes a charity or charitable organization;

(b) Define the types of charitable lotteries and charitable gift enterprises which may be engaged in;

(c) Set standards for the conduct of charitable lotteries and charitable gift enterprises by charitable organizations;

(d) Provide for means of accounting for the amount of money raised by lotteries and gift enterprises and for assuring its expenditure only for charitable purposes;

(e) Provide suitable penalties for violation of statutes relating to charitable lotteries and charitable gift enterprises; and

(f) Pass whatever other general laws the General Assembly deems necessary to assure the proper functioning, honesty, and integrity of charitable lotteries and charitable gift enterprises, and the charitable purposes for which the funds are expended.

(3) ***The General Assembly may establish electronic gaming at such facilities as the General Assembly may authorize by law and, if it does so, it shall:***

(a) Define which facilities may engage in electronic gaming;

(b) Define the types of electronic gaming which may be engaged in;

(c) Set standards for the conduct of electronic gaming;

(d) Provide for means of accounting for the amount of money raised by electronic gaming and for assuring the expenditure only for lawful purposes;

(e) Provide suitable penalties for violation of statutes relating to electronic gaming; and

(f) Pass whatever other general laws the General Assembly deems necessary to assure the proper functioning, honesty, and integrity of electronic gaming and the purpose for which the funds are expended.

(4) Except as provided in this section, lotteries and gift enterprises are forbidden, and no privileges shall be granted for such purposes, and none shall be exercised, and no schemes for similar purposes shall be allowed. The General Assembly shall enforce this section by proper penalties. All lottery privileges or charters heretofore granted are revoked.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.'"

Floor Amendment No. 36 to House Floor Amendment 21 to the Committee Substitute to **HB 768**, by Representative Lindsay:

On page 110 between lines 11 and 12, to insert the following:

"SECTION 54. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) A ten percent (10%) local government service fee is levied on the proceeds which the holder of an electronic gaming device license receives from electronic gaming which is to be used for the cost of defraying service and infrastructure costs which a local government may encounter as a result of an electronic gaming business in the county.

(2) One hundred percent (100%) of the funds received pursuant to subsection (1) of this section shall be paid by the license holder directly to the treasurer of the urban-county government for any electronic gaming business located in an urban-county.

(3) (a) Eighty percent (80%) of the funds received pursuant to subsection (1) of this section shall be paid by the license holder directly to the treasurer of the consolidated local government for any electronic gaming business located in a county with a consolidated local government.

(b) Twenty percent (20%) of the funds received pursuant to subsection (1) of this section shall be paid by the license holder directly to the treasurer of each city located in a county with a consolidated local government in which an electronic gaming facility is located. The funds each city receives shall be a proportional amount of the twenty percent (20%) based on the percentage of population of the city as measured by the population of all cities in the county with a consolidated local government other than the consolidated local government itself.

(4) (a) In a county other than an urban-county or a county with a consolidated local government, fifty percent (50%) of the funds received pursuant to subsection (1) of this section shall be paid by the license holder directly to the treasurer of the county and placed in the general fund of the county where the electronic gaming facility is located.

(b) In a county other than an urban-county or a county with a consolidated local government, fifty percent (50%) of the funds received pursuant to subsection (1) of this section shall be paid by the license holder directly to the treasurer of each city located in the county where an electronic gaming facility is located. The funds each city receives shall be a proportional amount of the fifty percent (50%) based on the percentage of population of the city as measured by the population of all cities in the county. The funds shall be placed in the general fund of the city.

(5) In the event that an electronic gaming facility is located in more than one (1) county then the same fee shall be paid to each county and to the cities located therein as is specified in subsections (2) and (3) of this section.

(6) Any county, urban-county government, consolidated local government, or city which is due funds pursuant to this section may seek the assistance of the Gaming Commission, which assistance shall be provided by the Gaming Commission, in determining the amount of funds due and the collection thereof." and

To renumber the ensuing sections accordingly.

Floor Amendment No. 37 to House Floor Amendment 21 to the Committee Substitute to **768**, by Representative Lindsay:

On page 110 between lines 11 and 12, to insert the following:

"SECTION 54. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) Any provision of this chapter which requires an electronic gaming device license holder or any other category of licensee to be a licensed racetrack or racing association to the contrary notwithstanding, the Lottery Corporation shall also issue any appropriate license required by this chapter to any person or business:

(a) Licensed by the Alcoholic Beverage Control Board to sell alcoholic or malt beverages by the drink and which also serves food on the premises as a part of the business; or

(b) Which holds a charitable gaming license.

(2) An applicant for licensure shall pay a license fee in the same amount as the license applied for under any other provision of this chapter and shall meet all provisions of this chapter with regard to the integrity of the licensee and the employees of the licensee.

(3) A licensee under this section shall have the same rights, duties, and privileges of any other holder of an appropriate license issued pursuant to this chapter with the exception of having to be related to a racetrack or racing association. A licensee under this section shall be subject to the same disciplinary measures as any other licensee under this chapter." and

To renumber the ensuing sections.

Floor Amendment No. 38 to House Floor Amendment 21 to the Committee Substitute to **HB 768**, by Representative S. Lee:

On page 1, line 14, after "*exist;*" by deleting "*and*"; and

On page 1, line 18, after "*KRS Chapter 154A;*" by inserting "*and*"; and

On page 1, after line 18, by inserting the following new paragraph:

"*(d) Allocate moneys generated for the state by the operation of electronic gaming devices by licensed racetracks to new and existing programs meeting the needs of the young, poor, elderly, and sick within this Commonwealth, which remain unfunded or underfunded due to the state budget shortfall.*" and

On page 47, between lines 3 and 4, by inserting the following new subsections:

"*(3) No person who receives assistance from a program meeting the needs of the young, poor, elderly, or sick which is funded, in whole or in part, by state revenues, or the parent or legal guardian of such person shall:*

(a) Play, be allowed to play, place wagers, or collect winnings, whether personally or through an agent, from any electronic gaming devices authorized under this chapter; or

(b) Loiter in areas where electronic gaming devices are located.

(4) A person applying for assistance from state-funded programs for the young, poor, elderly, or sick shall, as a condition of receiving the assistance, agree to abide by the prohibition contained in subsection (3) of this section. A finding of a violation of subsection (3) of this section in an administrative hearing conducted in accordance with KRS Chapter 13B shall result in the immediate termination of the violator's state assistance."

Motions, Petitions, Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 188, Representative Sims

HB 769, Representative Sims

HCR 130, Representative Sims.

Announcements

The following meetings were announced:

Majority Caucus: upon Recess, Supreme Court Chambers

Minority Caucus: upon Recess, Room 316

Adjournment

Representative Stumbo moved that the House adjourn until 9:00 a.m. on Friday, March 22, 2002.

The motion that the House adjourn until 9:00 a.m., Friday, March 22, 2002, was adopted by voice vote.

FRIDAY, MARCH 22, 2002

FIFTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Father Michael Ramler, Good Shepherd Catholic Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Branham, Cherry, Draud, and Graham.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Thursday, March 21, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 73, SB 91, SB 285, HB 260, HB 332, HB 334, HB 378, HB 448,** and **HB 590.**

Message received in regard to **HB 455**: The Senate has passed **HB 455**, by way of Senate Committee Substitute and with Senate Floor Amendment No. 1 Title, and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 644**: The Senate has passed **HB 644**, with Senate Floor Amendment No. 1, and respectfully requests concurrence of this Honorable Body.

The Senate has appointed the following members to serve on the Conference Committee to **HB 314**: Senator Borders, Roeding, Seum, and Palmer. (Time: 9:10 a.m.)

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Education: **SB 248**

Health and Welfare: **SB 286**

State Government: **SB 267**

House Floor: **HR 253**

Report of Committees

The Committee on Rules reported that **SB 66, SB 142,** and **SB 179** have been posted for passage in the Orders of the Day for March 25, 2002.

A Conference Committee Report was filed on **HB 314**.

Calendar

HB 600, SB 238, SJR 109, SJR 156, HB 840, HCR 239, SB 11, SB 150, SB 164, SB 207, SB 219, SB 289, SCR 185, SB 100, SB 126, SB 242, SB 180, and **HB 733** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

Representative Stumbo moved the adoption of the following Conference Committee Report on **HB 314**. Agreed.

HB 314 taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Stumbo moved the adoption of the following Conference Committee Report on **HB 314**. Agreed.

The Conference Committee on **HB 314** has met as provided in the Rules of the House and Senate and hereby reports that the following be adopted: Cannot agree.

Signed: March 22, 2003 - Representatives J. Adams, Hoffman, Vincent, and Simpson; Senators Seum, Palmer, Roeding, and Borders.

HB 314 Conference Committee Report was adopted by voice vote.

The Speaker announced the appointment of the previous appointed members of the Conference Committee to be on the Free Conference Committee on **HB 314**. Representatives Hoffman, Chairman; Simpson, J. Adams, and Vincent.

Recess

Representative Stumbo moved that the House recess and suspend the rules to allow for a Committee on Rules and a Committee on Education meeting on recess. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved to suspend the rules to allow for a Rules Committee Report and an Education Committee Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **SB 239, SB 243, HB 600, HB 733, SB 164, SB 207, SB 242, SJR 109, SJR 156,** and **SCR 185** have been posted for passage in the Orders of the Day for March 25, 2002.

The Education Committee report was not available at this time.

Orders of the Day (Continued)

SB 176 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Buckingham moved that **SB 176** be passed.

On the roll call the vote was: **Yeas 82, Nays 0**. (See March 22, 2002, roll call on **SB 176** - Appendix.)

SB 176 was passed and the title agreed to.

Representative Buckingham moved that the vote by which **SB 176** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 59 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 59** be returned to the Orders of the Day and retain its place therein. Agreed.

SB 121 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **SB 121** be passed.

On the roll call the vote was: **Yeas 83, Nays 0**. (See March 22, 2002, roll call on **SB 121** - Appendix.)

SB 121 was passed and the title agreed to.

Representative Adkins moved that the vote by which **SB 121** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 13, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nesler moved the adoption of the Committee Substitute to **SB 13**. Agreed.

Representative Thomas moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **SB 13**. Agreed.

Representative Nesler moved that **SB 13**, by way of Committee Substitute, as amended be passed.

On the roll call the vote was: **Yeas 87, Nays 0**. (See March 22, 2002, roll call on **SB 13** - Appendix.)

SB 13, by way of Committee Substitute, as amended was passed and the title agreed to.

Representative Nesler moved that the vote by which **SB 13**, by way of Committee Substitute, as amended was passed be reconsidered and said motion be placed on the table. Agreed.

SB 41, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Baugh moved the adoption of Floor Amendment No. 2 to **SB 41**. Agreed.

Representative Riggs moved that **SB 41**, as amended, be passed.

On the roll call the vote was: **Yeas 85, Nays 1**. (See March 22, 2002, roll call on **SB 41** - Appendix.)

SB 41, as amended, was passed and the title agreed to.

Representative Riggs moved that the vote by which **SB 41**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 168, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved the adoption of the Committee Substitute to **SB 168**. Agreed.

Representative Rasche moved that **SB 168**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 76, Nays 6**. (See March 22, 2002, roll call on **SB 168** - Appendix.)

SB 168, by way of Committee Substitute, was passed and the title agreed to.

Representative Rasche moved that the vote by which **SB 168**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 187 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved that **SB 187** be passed.

On the roll call the vote was: **Yeas 75, Nays 9**. (See March 22, 2002, roll call on **SB 187** - Appendix.)

SB 187 was passed and the title agreed to.

Representative Ford moved that the vote by which **SB 187** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 230 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved that **SB 230** be passed.

On the roll call the vote was: **Yeas 78, Nays 8**. (See March 22, 2002, roll call on **SB 230** - Appendix.)

SB 230 was passed and the title agreed to.

Representative Westrom moved that the vote by which **SB 230** was passed be reconsidered and said motion be placed on the table. Agreed.

SCR 34 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **SCR 34** be adopted.

On the roll call the vote was: **Yeas 90, Nays 0**. (See March 22, 2002, roll call on **SCR 34** - Appendix.)

SCR 34 was adopted.

Representative Damron moved that the vote by which **SCR 34** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 93 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative C. Belcher moved that **HJR 93** be adopted.

On the roll call the vote was: **Yeas 88, Nays 0**. (See March 22, 2002, roll call on **HJR 93** - Appendix.)

HJR 93 was adopted.

Representative C. Belcher moved that the vote by which **HJR 93** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 152 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **SB 152** be passed.

On the roll call the vote was: **Yeas 88, Nays 0**. (See March 22, 2002, roll call on **SB 152** - Appendix.)

SB 152 was passed and the title agreed to.

Representative Bruce moved that the vote by which **SB 152** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 153, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved the adoption of the Committee Substitute to **SB 153**. Agreed.

Representative Nunn moved that **SB 153**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 22, 2002, roll call on **SB 153** - Appendix.)

SB 153, by way of Committee Substitute, was passed and the title agreed to.

Representative Nunn moved that the vote by which **SB 153**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 559, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or nonconcurrence in Senate Amendments. Agreed.

The Senate Committee Substitute to **HB 559** is as follows:

HB 559, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.055 is amended to read as follows:

Subject to KRS 117.0551 to 117.0555:

(1) Each county shall be divided into election precincts by the county board of elections. Each election precinct shall be composed of contiguous and, as nearly as practicable, compact areas having clearly definable boundaries and wholly contained within any larger district. The county board of ***elections***[~~election~~] shall establish precincts so that no boundary of a precinct crosses the boundary of:

(a) The Commonwealth;

(b) A county or urban-county;

(c) A congressional district;

(d) A state senatorial district;

(e) A state representative district;

(f) - A justice of the peace or county commissioner's district established under KRS Chapter 67; or

(g) An aldermanic ward established under KRS 83.440.

(2) The county board of elections shall have the authority to draw precinct lines so as to enable more than one (1) precinct to vote at one (1) location. The county board of elections shall review election precinct boundaries as often as necessary. Without exception, they shall review the boundaries of all election precincts exceeding seven hundred (700) votes cast in the last regular election prior to each primary election***, and the State Board of Elections may require a written report at least sixty (60) days prior to the candidate filing deadline set forth in KRS 118.165(1) on each election precinct exceeding seven hundred (700) votes cast in the last regular election***. Consideration to the division of said election precincts should be based on the anticipated growth factor within the specified boundaries; however, the county board of elections shall not be prohibited from dividing election precincts in excess of seven hundred (700) votes cast in the last regular election or less than seven hundred (700) votes cast in the last regular election if they elect to do so. However, the State Board of Elections ***may, in its discretion, withhold from***[~~shall not remit to~~] a county the expenses of an election ***under KRS 117.345 for any precinct containing more than one thousand five hundred (1,500) registered voters, excluding those precincts utilizing optical scan voting machines and those periods of time in which the precinct boundaries have been frozen under KRS 117.056***[~~for any precinct containing less than three hundred fifty (350) registered voters unless the county has received prior approval from the state board to establish a precinct containing less than three hundred fifty (350) registered voters. The State Board of Elections shall provide by administrative regulation under what circumstances an exception shall be granted~~].

(3) No election precinct shall be created, divided, abolished, or consolidated or the boundaries therein changed prior to any primary election to comply with the provisions of KRS 117.055 to 117.0555 and KRS 117.0557 later than the last date prescribed by election law generally for filing notification and declaration forms with the county clerk or Secretary of State. No election precinct shall be created, divided, abolished, or consolidated or the boundaries therein changed prior to any general election to comply with the provisions of KRS 117.055 to 117.0555 and KRS 117.0557 later than the last date prescribed by election law generally for filing certificates or petitions of nomination with the county clerk or Secretary of State.

(4) The county board of elections shall designate the name or number and the boundaries of the election precincts. Each precinct shall contain, as nearly as practicable, an equal number of voters, based on the number of registered voters in the county.

(5) A map and listing of the exact election precinct boundaries shall be filed by the county board of elections with the State Board of Elections, and any changes in boundaries thereafter made shall also be filed with the State Board of Elections. A copy of this map indicating all precinct boundaries within the county shall be included in the election supplies of each precinct.

(6) If the county board of elections fails to perform any of the duties required by KRS 117.055 to 117.0555 and KRS 117.0557:

(a) The State Board of Elections or any citizen and voter of the county may apply to the Circuit Court of the county for a summary mandatory order requiring the board to perform the duty. Appeals may be taken to the Court of Appeals by either party; and

(b) The State Board of Elections shall not submit claims for payments to the county under KRS 117.343 and 117.345 until the State Board of Elections determines in writing that the duty has been performed.

(7) The county board of elections shall coordinate all precinct boundary changes with the affected school board, magisterial, and municipal boundaries.

Section 2. KRS 117.355 is amended to read as follows:

(1) Within three (3) days after any primary or general election, the precinct election sheriff shall file a report with the chairman of the county board of elections and with the local grand jury. The report shall include any irregularities observed and any recommendations for improving the election process.

(2) Within ten (10) days after any primary or general election, the county board of elections shall file a report with the State Board of Elections~~[, the Registry of Election Finance]~~ and the local grand jury. The report shall include any irregularities of which the county board has knowledge and any recommendations for improving the election process. The report shall also include a breakdown by precinct of the number of voters requiring assistance to vote and the reasons therefor; the number of special ballots cast by category; and any other information required by the state board.

(3) ***Within thirty (30) days after any primary or general election, the county board of elections shall transmit the information required by KRS 117.275(4).***

(4) The State Board of Elections shall issue administrative regulations to prescribe the forms required by this section.

Section 3. KRS 117.066 is amended to read as follows:

(1) In the case of a precinct comprised of a small number of registered voters, the county board of elections may, pursuant to KRS 117.055, utilize the facilities of another precinct as a voting location. Additionally, the county board of elections may petition the State Board of Elections to allow the precinct election officers of the larger precinct to serve as precinct election officers for the precinct that is the subject of the petition. The petition shall designate both the smaller precinct and the larger precinct with which it is to be included,~~[and]~~ the type of voting machine or machines to be used***, and whether supplemental paper ballots are to be used***. The petition shall contain a full explanation of the reasons why inclusion is desirable.

(2) If the petition submitted pursuant to subsection (1) of this section is approved by the State Board of Elections, the election shall be conducted according to the following provisions:

(a) One voting machine may be utilized for both precincts if the State Board of Elections certifies that separate ballots may be placed upon the voting machine to be used without endangering the integrity of the ballots or without violating any other election law. Otherwise, separate voting machines shall be used for each precinct***. In the instance of a precinct which has a small number of voters such that the use of a separate voting machine would be cost-prohibitive, the county clerk may make application to the State Board of Elections to use supplemental paper ballots under Section 4 of this Act to conduct the voting for the small precinct on election day. If the use of supplemental paper ballots is approved by the State Board of Elections, at the close of voting on election day, the locked ballot box shall be transported to the county board of elections and ballots shall be counted by the county board of elections as provided by KRS 117.275(8)***;

(b) Separate precinct voter rosters shall be maintained for each precinct, and steps shall be taken to insure that voters cast their ballot in their duly authorized precinct; and

(c) A separate set of elections forms and reports required by this chapter and the State Board of Elections shall be maintained for each precinct.

Section 4. KRS 118.215 is amended to read as follows:

(1) After the order of the names has been determined as provided in KRS 118.225, the Secretary of State shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence, and party of each candidate or slate of candidates for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device with which the candidate groups, slates of candidates, or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes, with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: Commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace, and constable. The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors. The names shall be certified as follows:

(a) Not later than the second Monday after the filing deadline for the primary;

(b) Not less than twenty-five (25) days before a runoff primary;

(c) Not later than the second Monday after the filing deadline for the general election, except as provided in paragraph (d) of this subsection; and

(d) Not later than the Thursday after the first Tuesday in September preceding a general election, for those years in which there is an election for President and Vice President of the United States.

(2) Except as otherwise provided in subsection (3) of this section, all independent candidates or slates of candidates whose nominating petitions are filed with the county clerk or the Secretary of State shall be listed under the title and device designated by them as provided in KRS 118.315, or if none is designated, under the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek. The order in which independent candidates or slates of candidates shall appear on the ballot shall be determined by lot by

the county clerk. If the same device is selected by two (2) groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section shall not apply to candidates for municipal offices which come under subsection (3) of this section.

(3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for the city offices grouped according to the offices they seek, and the candidates shall be immediately arranged with and designated by the title of office they seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which the candidates are to be elected shall be clearly separated from other groups on the ballot and spaced to avoid confusion on the part of the voter.

(4) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate or slate of candidates who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate or slate of candidates who has filed the required nomination papers.

(5) If the county clerk determines that the number of certified candidates or slates of candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the State Board of Elections not later than the last Tuesday in February preceding the primary or the last Tuesday in August preceding the general election. The State Board of Elections shall meet within five (5) days of the notice, review the ballot conditions, and determine whether supplemental paper ballots are necessary for the election. Upon approval of the State Board of Elections, supplemental paper ballots may be used for nonpartisan candidates or slates of candidates for an office or offices and public questions submitted for a yes or no vote. All candidates or slates of candidates for any particular office shall be placed either on the machine ballot or on the paper ballot. ***Supplemental paper ballots may also be used to conduct the voting, in the instance of a small precinct as provided in Section 3 of this Act.***

(6) The ballot position of a candidate or slate of candidates shall not be changed after the ballot position has been designated by the county clerk.

Section 5. Whereas as a result of differences among magisterial, congressional, and state legislative districts, there will exist precincts with a small number of voters in the 2002 primary elections, such that the cost of a separate voting machine for a small number of voters will be cost-prohibitive, and the privacy of the voters in the small district may be compromised by the tabulation of their votes at the precincts, an emergency is declared to exist, and Sections 3 and 4 of this Act take effect upon the passage and approval of this Act by the Governor or upon its otherwise becoming a law.

Representative Horlander moved that the House concur in the Senate Committee Substitute to **HB 559**. Agreed.

Representative Horlander moved that **HB 559**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 22, 2002, roll call on **HB 559** - Appendix.)

HB 559, by way of Senate Committee Substitute, was passed.

The Senate Committee Amendment No. 1 Title to the Senate Committee Substitute to **HB 559** is as follows:

Amend the title to read as follows: "AN ACT relating to elections and declaring an emergency."

Representative Horlander moved that the House concur in the Senate Committee Amendment No. 1 Title to the Senate Committee Substitute to **HB 559**. Agreed.

Representative Horlander moved that the vote by which **HB 559**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 146 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crall moved that **SB 146** be passed.

On the roll call the vote was: **Yeas 90, Nays 0**. (See March 22, 2002, roll call on **SB 146** - Appendix.)

SB 146 was passed and the title agreed to.

Representative Crall moved that the vote by which **SB 146** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved to waive the posting requirement on the following: **SJR 153**. Agreed.

Representative Stumbo moved that the rules be suspended for the Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HR 254, by Representative McKee: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Joyce R. England.

HR 255, by Representative Stein: A RESOLUTION adjourning the House of Representatives in honor of Dr. Franklin Bernard Moosnick and in recognition of his eighty-fifth birthday on February 28, 2002.

Motions, Petitions, and Communications (Continued)

A Free Conference Committee Report was filed on **HB 314**.

Representative Comer moved the adoption of the following **HR 253**:

HR 253, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Carrie Ann Beams and Aaron Joseph Beams, loving sister and brother.

WHEREAS, it is with heavy hearts and deep sadness to learn of the premature passing of a loving sister and brother, Carrie Ann Beams and Aaron Joseph Beams on February 26, 2002; and

WHEREAS, Carrie Ann Beams, age seventeen, and Aaron Joseph Beams, age ten, were the adored children of Joseph Todd Beams and Jackie C. Scott Beams, and they are also survived by loving grandparents, Carolyn and Eddie Loyall and Olin and Brenda Scott, both of Summersville, and Garnett and Betty Beam of Green County, and their two loving great-grandparents, Audrey Akin of Green County and Sybil Pepper of Taylor County, and many other relatives and friends; and

WHEREAS, Carrie Ann and Aaron Joseph were members of the Sand Lick Separate Baptist Church where Carrie Ann was baptized on August 25, 1996; Carrie Ann was a senior at Green County High School and a member of the FFA and HOSA, and Aaron Joseph was a fourth grade student at Greensburg Elementary School where he was a member of 4-H, and an avid ball player, hunter, and fisherman; and

WHEREAS, in the aftermath of this tragic accident in Green County, Kentucky, we are reminded of the grief and suffering afflicted upon the family and friends of this loving brother and sister, how precious they were to their loved ones, and how their loved ones have been denied the opportunity of witnessing them reach their full potential; and

WHEREAS, the premature passing of Carrie Ann Beams and Aaron Joseph Beams has left a void that cannot be filled, and they are mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow and heartfelt sympathy upon the premature passing of Carrie Ann Beams and Aaron Joseph Beams, and commend their loved ones to the solace of the Almighty during these dark and painful times.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Carrie Ann Beams and Aaron Joseph Beams.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. and Mrs. Joseph Todd Beams, 4238 Marshall Ridge Road, Greensburg, Kentucky 42743.

There being no objection **HR 253** was adopted.

Representative McKee moved the adoption of the following **HR 254**:

HR 254, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Joyce R. England.

With deepest respect and admiration, we pay homage and tribute to Joyce R. England, and we pause in silent reverence for her soul.

WHEREAS, Joyce R. England was born on July 21, 1927, a native of Knoxville, Pendleton County, Kentucky, and longtime resident of Falmouth, and she traversed these earthly bounds on August 12, 2001; and

WHEREAS, Joyce R. England was the loving daughter of the late Fred Otis Draper and Maude Draper, and she also was preceded in death by three brothers, Carl Guy Draper, William Donald Draper, and Herald Draper; she was the devoted wife of fifty-six years to her loving husband, Donald England, she was the loving mother of two sons, Jerry England and his wife, Cheryl, of Lexington, and Terry England of Falmouth, and she was the proud grandmother of two granddaughters, Julie England Edling and her husband, Chris, of Versailles, and Jill England of Lexington; and

WHEREAS, Joyce R. England was an active and involved citizen and an esteemed member of the Pendleton County community where she was a member of the Knoxville Baptist Church, and where she graduated from Butler High School in 1944; she was a retired Metropolitan Life Insurance agent, and the first female agent hired by Metropolitan in Kentucky, and during her successful career, she was the recipient of several honorary distinctions with the Metropolitan Life Insurance Company; she was a gifted vocalist and musician, and she played the piano and organ by "ear," and she was a former member of the Falmouth Women's Club where she was an integral part of their fundraising activities, and a member of the Honorable Order of Kentucky Colonels; and

WHEREAS, the passion, dedication, intelligence, and social consciousness Joyce R. England brought to this Commonwealth will never be forgotten; her passing has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Joyce R. England, and extends to her family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Joyce R. England.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. Terry England, 402 Robbins Avenue, Falmouth, Kentucky 41040.

There being no objection **HR 254** was adopted.

Representative Hoffman moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Hoffman moved that he be recorded as voting "yea" on **SB 187** and **HJR 93**. Agreed.

Representative S. Lee moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative S. Lee moved that he be recorded as voting "yea" on **SB 128**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Palumbo moved that her vote be changed from "yea" to "nay" on **HB 729**. Agreed.

Representative Webb moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Webb moved that she be recorded as voting "yea" on **SB 152**. Agreed.

Representative Vincent moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Vincent moved that he be recorded as voting "nay" on **HB 747**. Agreed.

Representative Meeks moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Meeks moved that he be recorded as voting "yea" on **SB 187** and **HJR 134**. Agreed.

Representative Vincent moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Vincent moved that he be recorded as voting "yea" on **SB 41, SB 152, SB 168, SB 187, SB 230, SB 121, SB 13, SB 176,** and **SCR 34**. Agreed.

Representative Simpson moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Simpson moved that he be recorded as voting "yea" on **SB 230, SB 187, SB 168, SB 41, SB 13, SB 121, SB 176, SCR 34,** and **HJR 93**. Agreed.

Representative Treesh moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Treesh moved that he be recorded as voting "yea" on **SB 121, SB 13,** and **SB 41**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Palumbo moved that she be recorded as voting "yea" on **HB 258, HB 339, HJR 77, SB 125,** and **SB 143**. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 258, HB 339, HCR 56, HCR 65,** and **HJR 77** were delivered to the Senate and signed by the President. Delivered to the Governor on March 22, 2002, at 10:30 a.m.

Motions, Petitions, and Communications (Continued)

Representative Hoffman moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Hoffman moved that he be recorded as voting "yea" on **SB 41, SB 168, SB 230, SB 152,** and **SCR 34**. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 733**, by Representative Heleringer:

On page 1, at line 3, after the word "***may***", by inserting the words "***establish certain oversight committees which may take action whether or not the General Assembly is in session, the powers and duties of which shall be prescribed by law and may include but not be limited to the right to approve, reject, or amend contracts, bond proposals, or other agreements to which the Commonwealth is a party, and the General Assembly may***".

Floor Amendment No. 3 to the Committee Substitute to **SB 227**, by Representative Riner:

On page 2, after line 14, by inserting the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

A prosecuting attorney shall not agree to the amendment of a charge of rape or sodomy in the first degree to a charge of sexual misconduct or to any misdemeanor offense and shall oppose the amendment of the charge at trial and at any pre-trial proceeding, unless the prosecuting attorney certifies to the court on the record that there is insufficient evidence to prove, by a preponderance of the evidence, that the defendant committed the offense of rape or sodomy in the first degree."

Floor Amendment No. 4 to the Committee Substitute to **SB 227**, by Representative Riner:

On page 2, after line 14, by inserting the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

A prosecuting attorney shall not agree to the amendment of a charge of rape or sodomy in the first or second degree to a charge of sexual misconduct or to any misdemeanor offense and shall oppose the amendment of the charge at trial and at any pre-trial proceeding, unless the prosecuting attorney certifies to the court on the record that there is insufficient evidence to prove, by a preponderance of the evidence, that the defendant committed the offense of rape or sodomy in the first or second degree."

Floor Amendment No. 5 to the Committee Substitute to **SB 227**, by Representative Riner:

On page 2, after line 14, by inserting the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

A prosecuting attorney shall not agree to the amendment of a charge of rape or sodomy of any degree to a charge of sexual misconduct or to any misdemeanor offense and shall oppose the amendment of the charge at trial and at any pre-trial proceeding, unless the prosecuting attorney certifies to the court on the record that there is insufficient evidence to prove, by a preponderance of the evidence, that the defendant committed the offense of rape or sodomy of any degree."

Floor Amendment No. 1 to the Committee Substitute to **SB 238**, by Representative J. Lee:

On page 1, between lines 8 and 9, insert a new Section 2 to read as follows:

"Section 2. KRS 177.037 is amended to read as follows:

(1) The Department of Highways may install and maintain signs recognizing the boundary of a city, town, or community whether incorporated or unincorporated. These signs shall be installed regardless of whether the community has a post office, if the Department of Highways had previously erected signs recognizing the city, town or community. The signs shall be placed at the official community boundaries. If the community does not have official boundaries, the signs shall be installed at the community boundaries as determined by the built-up area.

(2) The department shall install and maintain signs at the boundaries of any city of the first through sixth class or an unincorporated urban place as defined in KRS 177.366, regardless if the city or unincorporated urban place has a post office or zip code, if the city or unincorporated urban place submits a written request for one (1) or more signs:

(a) To honor the birthplace of a person important to the city or unincorporated urban place; or

(b) To honor an event or accomplishment important to the city or unincorporated urban place; and

(c) The city or unincorporated urban place agrees to pay for the actual cost to make and install the signs.

(3) The department shall work with the city or unincorporated urban place to determine the appropriate place to install the signs required under subsection (2) of this section. If an agreement cannot be reached on the appropriate place to install the signs, the site selected by the city or unincorporated urban place shall take precedence and the department shall not prohibit and shall not delay the installation of the signs.

(4) All statutes to the contrary notwithstanding, the Transportation Cabinet shall amend its policies and administrative regulations in effect on the effective date of this Act to comply with the provisions of this section, and shall not subsequently adopt new policies or promulgate new administrative regulations to the contrary."; and

On page 1, line 9, renumber existing "Section 2" as "Section 3".

Floor Amendment No. 39 to Floor Amendment 21 to the Committee Substitute to **HB 768**, by Representative Riner:

On page 110, between lines 11 and 12, by inserting the following:

"SECTION 54. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

Whereas the General Assembly finds that it is in the public interest for all citizens of the Commonwealth to appreciate the virtues associated with hard work and the dangers and consequences of participation in gambling activities, including electronic gaming, which has been known to undermine the fiscal and social responsibility of individuals, the integrity of families, and the ethos of communities through gambling addictions and crimes relating to those addictions. In order to warn Kentucky's youth of the destructive impact of gambling, the Kentucky Board of Education shall promulgate an administrative regulation that prescribes the local district responsibilities and the essential elements that shall be integrated into the K-12 curriculum, including but not limited to understanding fiscal responsibility, mathematical odds and the consequences of gambling addictions.";

On page 110, line 12, by renumbering "Section 54." to "Section 55.";

On page 110, line 25, by renumbering "Section 55." to "Section 56.";

On page 111, line 4, by renumbering "Section 56." to "Section 57."; and

On page 111, line 7, by renumbering "Section 57." to "Section 58.".

Floor Amendment No. 40 to Floor Amendment 21 to the Committee Substitute to **HB 768**, by Representative Riner:

On page 17, line 13, after "*(2)*" by inserting the following

"*The Lottery Corporation shall require that each electronic gaming device be equipped with a highly visible sign reading: "WARNING: Electronic gaming devices have been associated with the undermining of individual fiscal and social responsibility, as well as having a destructive impact on the families and children of those who participate in electronic gaming activities"*

(3)".

Floor Amendment No. 3 to the Committee Substitute to **HB 600**, by Representative Treesh:

On page 7, line 6, by deleting "*(1)*"; and

On page 7, line 8, by deleting "*in*"; and

On page 7, line 9, by deleting the new language before the "."; and

On page 7, beginning with line 15, and ending on page 8, line 2, by deleting the new language in its entirety.

Floor Amendment No. 1 to the Committee Substitute to **SB 123**, by Representative Vincent:

On page 9, line 22, after "*festivals.*", by inserting "*This provision shall be inapplicable to those licensed pursuant to KRS 242.1292.*";

On page 16, line 17, after "KRS 243.050" by inserting the following: "*and KRS 242.1292*"; and

On page 17, between lines 9 and 10, by inserting the following:

"*The provisions of this subsection shall be inapplicable to KRS 242.1292.*".

Floor Amendment No. 4 to the Committee Substitute to **HB 600**, by Representative Coleman:

On page 3, line 11, before the word "***members***" by deleting the words "*ex officio*"; and

On page 3, line 12, after the word "*committee*" by inserting "***listed in subsection (2) of Section 6 of this Act***"; and

On page 5, line 24 after the word "*committee*" by deleting the word "*may*" and by inserting in lieu thereof the word "***shall***"; and

On page 7, after line 4 by inserting the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Certified historic structure" means a structure that is located within the Commonwealth of Kentucky and is:

1. Listed individually on the National Register of Historic Places; or

2. Located in a historic district listed on the National Register of Historic Places and is certified by the director as contributing to the historic significance of the district;

(b) "Certified rehabilitation" means a completed substantial rehabilitation of a certified historic structure that the director certifies meets the United States Secretary of the Interior's standards for rehabilitation;

(c) "Director" means the director of the Kentucky Heritage Council;

(d) "Disqualifying work" means work that is performed within three (3) years of the completion of the certified rehabilitation, and that if performed as part of the rehabilitation certified under this section would have made the rehabilitation ineligible for certification;

(e) "Exempt entity" means any exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code, political subdivision of the Commonwealth, state or local agency, board, or commission, or quasi-governmental entity;

(f) "Local government" means a city, county, urban-county, charter county, or consolidated local government;

(g) "Owner-occupied residential property" means a building or portion thereof, condominium, or cooperative occupied by the owner as his or her principal residence;

(h) "Qualified purchased historic home" means any substantially rehabilitated certified historic structure if:

1. The taxpayer claiming the credit is the first purchaser of the structure after the date of completion of the rehabilitation;

2. The structure or a portion thereof will be the principal residence of the taxpayer within a reasonable period; and

3. No credit was allowed to the seller under this section.

A qualified purchased historic home shall be deemed owner-occupied residential property for purposes of this section;

(i) "Qualified rehabilitation expense" means any amount that is properly chargeable to a capital account, whether or not depreciation is allowed under Section 168 of the Internal Revenue Code, and that is expended in connection with the certified rehabilitation of a certified historic structure. It shall include the cost of restoring landscaping and fencing that contribute to the historic significance of this structure, but shall not include the cost of acquisition of a certified historic structure, enlargement of or additions to an existing building, or the purchase of personal property;

(j) "Substantial rehabilitation" means rehabilitation of a certified historic structure for which the qualified rehabilitation expenses, during a twenty-four (24) month period selected by the taxpayer or exempt entity, ending with or within the taxable year, exceed:

1. Twenty thousand dollars ($20,000) for an owner-occupied residential property; or

2. For all other property, the greater of:

a. The adjusted basis of the structure; or

b. Twenty thousand dollars ($20,000).

In the case of any rehabilitation which may reasonably be expected to be completed in phases set forth in architectural plans and specifications completed before the rehabilitation begins, a sixty (60) month period may be substituted for the twenty-four (24) month period provided for in this paragraph; and

(k) "Taxpayer" means any individual, corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted.

(2) There shall be allowed as a credit against the taxes imposed by KRS 141.020, 141.040, 136.070, 136.120, or 136.505, an amount equal to:

(a) Thirty percent (30%) of the qualified rehabilitation expenses, in the case of owner-occupied residential property; and

(b) Five percent (5%) of the qualified rehabilitation expenses, in the case of all other property.

In the case of an exempt entity that has incurred qualified rehabilitation expenses, the credit provided in this subsection shall be available to transfer or assign as provided under subsection (7) or (8) of this section.

(3) The maximum credit which may be claimed with regard to any owner-occupied residential property shall be sixty thousand dollars ($60,000). A taxpayer may first claim the credit in the year following the year in which the certified rehabilitation is completed.

(4) In the case of a husband and wife filing separate returns or filing separately on a joint return, the credit may be taken by either, or divided equally, but the combined credit shall not exceed sixty thousand dollars ($60,000).

(5) If the credit amount that may be claimed in any tax year as determined under subsections (2) and (3) of this section exceeds the taxpayer's total tax liabilities under KRS 141.020, 141.040, 136.070, 136.120, or 136.505, the taxpayer may carry the excess tax credit forward until the tax credit is used, provided that any tax credits not used within seven (7) years of the taxable year the certified rehabilitation was complete shall be lost.

(6) If the taxpayer is a pass-through entity, the credit shall pass through in the same proportion as the distributive share of income or loss is passed.

(7) Credits received under this section may be transferred or assigned, for some or no consideration, along with any related benefits, rights, responsibilities, and liabilities. Within thirty (30) days of the date of any transfer of credits, the party transferring the credits shall notify the Revenue Cabinet of:

(a) The name, address, and Social Security number or employer identification number, as may be applicable, of the party to which the credits are transferred;

(b) The amount of credits transferred; and

(c) Any additional information the Revenue Cabinet deems necessary.

The provisions of this subsection shall apply to any credits that pass through to a successor or beneficiary of a taxpayer.

(8) In the case of a qualified purchased historic home, the purchaser shall be treated as having incurred, on the date of purchase, the expenses paid by the seller of the building which would be qualified rehabilitation expenses if the expenses had been paid by the purchaser.

(9) For purposes of this section, a lessee of a certified historic structure shall be treated as the owner of the structure if the remaining term of the lease is not less than the minimum period promulgated by administrative regulation by the Kentucky Heritage Council.

(10) The taxes imposed in KRS 141.020 and 141.040 shall not apply to the value of the amount of the transfer, sale, assignment, or use of a tax credit allowed under this section.

(11) The Revenue Cabinet shall assess a penalty on any taxpayer or exempt entity that performs disqualifying work on a certified historic structure for which a rehabilitation has been certified under this section in an amount equal to one hundred percent (100%) of the tax credit allowed on the rehabilitation.

(12) The director may impose fees for processing applications for tax credits, if the fees do not exceed the actual cost associated with processing the applications.

(13) The director may authorize a local government to perform an initial review of applications for the credit allowed under this section and forward the applications to the director with its recommendations.

(14) The Kentucky Heritage Council and the Revenue Cabinet may promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A to establish policies and procedures to implement the provisions of subsections (2) to (13) of this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Certified home" means a qualified home on which construction has been completed that has been certified by the director as meeting the historic infill design guidelines promulgated in administrative regulations by the Kentucky Heritage Council;

(b) "Director" means the director of the Kentucky Heritage Council;

(c) "Disqualifying work" means work that is performed within three (3) years of the certification of the certified home, and that if performed as part of the construction certified under this section would have made the structure ineligible for certification;

(d) "Local government" means a city, county, urban-county, charter county, or consolidated local government;

(e) "Qualified construction expense" means any amount expended in connection with the construction of a certified home, but shall not include the cost of acquisition of the underlying land, landscaping, or personal property; and

(f) "Qualified home" means an owner-occupied single-family dwelling, including the residential portion of a mixed-use property, or an addition to or an enlargement of an existing owner-occupied single-family dwelling, constructed after the effective date of this Act that is:

1. Located within the Commonwealth of Kentucky;

2 Sold for use as the principal residence of the purchaser;

3. Located in a historic district listed on the National Register of Historic Places; and

4. Except in the case of an addition to or enlargement of an existing structure, constructed on land on which no structure has existed for the preceding twenty-four (24) month period, other than a structure that the director has determined:

a. Was not of historic importance;

b. Did not contribute to the historic character of the historic district in which it was located; or

c. Was not otherwise worthy of preservation as a building of unique architectural significance.

(2) There shall be allowed as a credit against the tax imposed by KRS 141.020, an amount equal to ten percent (10%) of the taxpayer's qualified construction expenses made to a certified home.

(3) The maximum credit which may be claimed by any taxpayer shall be twenty thousand dollars ($20,000). A taxpayer may first claim the credit in the year following the year in which the certified home is sold for use as the principal residence of the purchaser.

(4) In the case of a husband and wife filing separate returns or filing separately on a joint return, the credit may be taken by either, or divided equally, but the combined credit shall not exceed twenty thousand dollars ($20,000).

(5) No credit shall be allowed with respect to a structure located on land on which an existing structure has been demolished within the preceding twenty-four (24) month period, unless the director shall make a finding that the demolished structure was not of historic importance, did not contribute to the historic character of the historic district in which it was located, or was not otherwise worthy of preservation as a building of unique architectural importance.

(6) If the credit amount that may be claimed in any tax year as determined under subsections (2) and (3) of this section exceeds the taxpayer's total tax liability under KRS 141.020, the taxpayer may carry the excess tax credit forward until the tax credit is used, provided that any tax credits not used within seven (7) years of the taxable year the certified home was complete shall be lost.

(7) Credits received under this section may be transferred or assigned, for some or no consideration, along with any related benefits, rights, responsibilities, and liabilities. Within thirty (30) days of the date of any transfer of credits, the party transferring the credits shall notify the Revenue Cabinet of:

(a) The name, address, and Social Security number or employer identification number, as may be applicable, of the party to which the credits are transferred;

(b) The amount of credits transferred; and

(c) Any additional information the Revenue Cabinet deems necessary.

The provisions of this subsection shall apply to any credits that pass through to a beneficiary of a taxpayer.

(8) The tax imposed in KRS 141.020 shall not apply to the value of the amount of the transfer, sale, assignment, or use of a tax credit allowed under this section.

(9) The Revenue Cabinet shall assess a penalty on any owner performing disqualifying work on a certified home in an amount equal to one hundred percent (100%) of the tax credit allowed on the rehabilitation.

(10) The director may impose fees for processing applications for tax credits, provided that the fees do not exceed the actual cost associated with processing the applications.

(11) The director may authorize a local government to perform an initial review of applications for the credit allowed under this section and forward the applications to the director with its recommendations.

(12) The Kentucky Heritage Council and the Revenue Cabinet may promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A to establish policies and procedures to implement the provisions of subsections (2) to (11) of this section, including administrative regulations outlining the historic infill design guidelines to ensure the compatibility of the exterior design, scale, and siting of the certified home with the structures in its immediate vicinity and the historic district in which it is located.

SECTION 3. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the "Neighborhood Redevelopment Housing Award Program" to be administered by the director of the Kentucky Housing Corporation.

(2) As used in this section:

(a) "Approved area" means an area that meets the description contained in KRS 99A.020;

(b) "Approved buyer" means a first-time home buyer whose family income is at or below eighty percent (80%) of the area median income for the Commonwealth as determined by the United States Department of Housing and

- *Urban Development;*

(c) "Depressed property" means a:

1. Single-family residence that is in need of repair, is abandoned, or is otherwise substandard or unsanitary, that requires at least twenty thousand dollars ($20,000) in rehabilitation expenditures and that can reasonably be expected to appraise for eighty thousand dollars ($80,000) or less when reconstructed or repaired; or

2. Vacant lot in an approved area on which a single-family residence will be built that can reasonably be expected to appraise for eighty thousand dollars ($80,000) or less when completed.

The eighty thousand dollar ($80,000) limitation shall be adjusted by the director of the Kentucky Housing Corporation on July 1 of each year based upon any increase or decrease in the Consumer Price Index in the preceding calendar year; and

(d) "Lending institution" means any entity that makes a loan under this section.

(3) An approved buyer of a depressed property in an approved area shall be eligible for a neighborhood redevelopment housing award. The award amount shall be ten percent (10%) of the appraised value of the renovated property.

(4) An application for an award shall be submitted by the lending institution to the Kentucky Housing Corporation in a format approved by the Kentucky Housing Corporation. The Kentucky Housing Corporation shall advise the lending institution if the award is approved before the sale of the approved property is completed. The total amount of awards to be approved through the Neighborhood Redevelopment Housing Award Program shall be two million dollars ($2,000,000) per year.

(5) The approved award shall be paid to or on behalf of the buyer, at the time of purchase of the property, by the lending institution. The lending institution shall be reimbursed for the amount of the award by claiming the credit in subsection (6) of this section. The lending institution shall be required to make available to the buyer a mortgage loan equal to ninety percent (90%) of the appraised value of the renovated or constructed property.

(6) There shall be allowed a nonrefundable credit against the taxes imposed by KRS 141.020, 141.040, 136.070, 136.120, and 136.505 for a lending institution making awards under the neighborhood redevelopment housing award program. The amount of the credit shall be equal to the amount of approved awards approved by the Kentucky Housing Corporation under subsection (4) of this section and paid by the lending institution to approved buyers during the taxable year. A lending institution may first claim the credit in the year following the year in which the property is sold.

(7) In the case of a husband and wife filing separate returns or filing separately on a joint return, the credit may be taken by either, or divided equally.

(8) If the credit amount that may be claimed in any tax year as determined under subsection (6) of this section exceeds the taxpayer's total tax liability under KRS 141.020, 141.040, 136.070, 136.120, or 136.505, the taxpayer may carry the excess tax credit forward until the tax credit is used, provided that any tax credits not used within seven (7) years of the taxable year the renovation was complete shall be lost.

(9) If the lending institution is a pass-through entity, the credit shall pass through in the same proportion as the distributive share of income or loss is passed.

(10) Credits received under this section may be transferred or assigned, for some or no consideration, along with any related benefits, rights, responsibilities, and liabilities. Within thirty (30) days of the date of any transfer of credits, the party transferring the credits shall notify the Revenue Cabinet of:

(a) The name, address, and Social Security number or employer identification number, as may be applicable, of the party to which the credits are transferred;

(b) The amount of credits transferred; and

(c) Any additional information the Revenue Cabinet deems necessary.

The provisions of this subsection shall apply to any credits that pass through to a successor or beneficiary of a lending institution.

(11) The tax imposed in KRS 141.020 or 141.040 shall not apply to the value of the amount of the transfer, sale, assignment, or use of a tax credit allowed under this section.

(12) An approved buyer who receives an award under this program shall agree to restrictions on the sale of the property if it is resold within (10) years. If the property is sold within ten (10) years, the selling price shall not exceed the appraised value on which the award was computed, plus any additional improvements, increased by five percent (5%) for each year, or part thereof, the property was owned by the approved buyer, and the approved buyer shall repay to the Kentucky Housing Corporation the amount determined in subsection (3) of this section. If the property is not sold within ten (10) years, no part of the award shall be required to be repaid, and no restriction shall be placed on the selling price.

Section 4. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020 or 141.040, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3);

(b) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

(c) The health insurance credit permitted by KRS 141.062;

(d) The tax paid to other states credit permitted by KRS 141.070;

(e) The credit for hiring the unemployed permitted by KRS 141.065;

(f) The recycling or composting equipment credit permitted by KRS 141.390;

(g) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263;

(h) The low income credit permitted by KRS 141.066;

(i) The household and dependent care credit permitted by KRS 141.067;[~~and~~]

(j) The coal incentive credit permitted under KRS 141.0405***;***

(k) The certified rehabilitation credit permitted under Section 6 of this Act;

(l) The certified home credit permitted under Section 7 of this Act; and

(m) The neighborhood redevelopment housing credit permitted under Section 8 of this Act.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350; and

(b) The individual estimated tax payment credit permitted by KRS 141.305.

(3) The nonrefundable credits against the tax imposed by KRS 141.040 shall be taken in the following order:

(a) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

(b) The health insurance credit permitted by KRS 141.062;

(c) The unemployment credit permitted by KRS 141.065;

(d) The recycling or composting equipment credit permitted by KRS 141.390;

(e) The coal conversion credit permitted by KRS 141.041;

(f) The enterprise zone credit permitted by KRS 154.45-090;

(g) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263;[~~and~~]

(h) The coal incentive credit permitted under KRS 141.0405***;***

(i) The certified rehabilitation credit permitted under Section 6 of this Act;

(j) The certified home credit permitted under Section 7 of this Act; and

(k) The neighborhood redevelopment housing credit permitted under Section 8 of this Act.

(4) After the application of the nonrefundable credits in subsection (3) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the tax imposed by KRS 141.040."; and

Renumber subsequent sections accordingly.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 721, Representative Rader

HB 737, Representative Denham

HCR 161, Representative Rader.

Announcements

The following meetings were announced:

Tourism Development and Energy: upon adjournment, in the House Chamber

Banking and Insurance, Monday: March 25, 2002, 3:00 p.m.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m. on Monday, March 25, 2002.

The motion that the House adjourn until 4:00 p.m., Monday, March 25, 2002, was adopted by voice vote.

MONDAY, MARCH 25, 2002

FIFTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Dr. Gary Straub, First Christian Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Hoover.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Friday, March 22, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 273, HB 45, HB 56, HB 156, HB 381, HB 400, HB 554, HB 617,** and **HB 626**.

Message received in regard to **HB 194**: The Senate has passed **HB 194**, with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 348**: The Senate has passed **HB 348**, by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 428**: The Senate has passed **HB 428**, by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 452**: The Senate has passed **HB 452**, by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 314**: The Senate has adopted the Free Conference Committee Report on **HB 314** and is notifying this Honorable Body that it has repassed the bill as amended, in free conference. (Time: 4:10 p.m.)

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 67, HB 260, HB 332, HB 334, HB 378, HB 393, HB 448, HB 470, HB 590, SB 36, SB 113, SB 130, SB 133, SB 134, SB 178,** and **SCR 49** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:13 p.m.)

Representative Crall moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Crall moved the adoption of the following **Legislative Citation No. 106**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincere congratulations to the members of the Kentucky Wesleyan College Panthers Basketball Team for phenomenal performance throughout the season which contributed to this remarkable group of athletes winning the NCAA Great Lakes Region and Great Lakes Valley Conference Championship titles, advancing to and setting an NCAA record for its fifth consecutive appearance in the NCAA Division II Championship game and finishing the season with a phenomenal 31-3 record. Inasmuch as the members of this celebrated team, under the exceptional guidance of head coach Ray Harper, have demonstrated remarkable talent and dedication to the sport of basketball and, as a result, have brought great honor to their school, community and this great Commonwealth, the members of this honorable body are delighted to join with Representative Brian Crall in applauding the achievements of the Kentucky Wesleyan College Panthers Basketball Team and in extending best wishes for continued monuments of athletic success and good fortune. Done in Frankfort, Kentucky, this twenty-fifth day of March, in the year two thousand and two.

Legislative Citation No. 106 was adopted without objection.

Introduction of Bills and Resolutions

HR 256, by Representative Burch: A RESOLUTION encouraging the purchase and vigorous use of the USS Louisville 688 VLS Class submarine.

HR 257, by Representatives Pullin, Hall, Meeks, Nelson, Comer, Denham, Brinkman, Smith, S. Lee, Mobley, and Pasley: A RESOLUTION honoring Representative Edmond Bruce and adjourning the House of Representatives in his honor.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Education: **SB 73**

Health and Welfare: **SB 91**

Transportation: **SB 285**

House Floor: **HR 255**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

State Government: **SB 267**

Report of Committees

The Committee on Tourism Development and Energy reported **SB 229** and **SCR 92** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 229, AN ACT relating to the establishment of a Lewis and Clark Bicentennial Commission.

WHEREAS, the Lewis and Clark expedition officially began its voyage down the Ohio River near Louisville toward St. Louis, Missouri, on October 26, 1803, and the Falls of the Ohio River has been recognized by the National Park Service as an official part of the Lewis and Clark expedition trail.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. (1) The Lewis and Clark Bicentennial Commission is hereby established and attached to the Kentucky Historical Society for administrative purposes only.

(2) As used in this section, "bicentennial" refers to the bicentennial of the Lewis and Clark expedition;

(3) As used in this section, "commission" refers to the Lewis and Clark Bicentennial Commission established in subsection (3) of this section.

(4) The commission shall consist of the following nineteen (19) members:

- (a) Two (2) members of the House of Representatives appointed by the Speaker of the House;
- (b) Two (2) members of the State Senate appointed by the President of the Senate;
- (c) The Secretary of the Education, Arts and Humanities Cabinet or his or her designee;
- (d) Two (2) members from the Tourism Development Cabinet;
- (e) One (1) member from the Kentucky Historical Society, appointed by the head of that agency;
- (f) One (1) member from the Kentucky Heritage Council, appointed by the head of that agency;
- (g) One (1) member from the Kentucky Humanities Council, appointed by the head of that agency;
- (h) One (1) member from the Native American Commission, appointed by the head of that agency;
- (i) One (1) member from the Kentucky African-American Commission, appointed by the head of that agency;
- (j) One (1) member from the Falls of Ohio Lewis and Clark Bicentennial Committee, appointed by the president of that committee; and
- (k) Six (6) citizen members, one of whom shall be designated as the chairman and appointed by the Governor.

(5) The commission shall:

- (a) Educate Kentucky residents and the nation about Kentucky's important role in the Lewis and Clark expedition;

(b) Assist local governments and organizations with planning, preparation, and grant applications for bicentennial events and projects;

(c) Coordinate federal, state, local, and nonprofit organizations' bicentennial activities occurring in Kentucky;

(d) Act as a point of contact for national bicentennial organizations wishing to distribute information to state and local groups about grant opportunities, meetings, and national events;

(e) Plan and implement appropriate events to commemorate the bicentennial;

(f) Seek federal grants and philanthropic support for bicentennial activities; and

(g) Perform other duties necessary to highlight Kentucky's role in the Lewis and Clark expedition.

(6) The provisions of this section shall expire on January 1, 2008.

SCR 92, A CONCURRENT RESOLUTION directing the Legislative Research Commission to establish a task force to examine the development of the Lexington/Big Sandy Rail Trail, and suggest a strategy for its completion.

WHEREAS, the conversion of abandoned or unused railroad trails for pedestrian and nonmotorized use has become national policy through the National Trails Systems Act; and

WHEREAS, Rails to Trails projects throughout the United States have been shown to strengthen local economies through tourism and job development, preserve cultural and historic areas, protect natural green spaces, create family and individual recreational opportunities, preserve transportation options, encourage healthy lifestyles, and enhance community prosperity; and

WHEREAS, over 10,000 miles of rail-trail have been created across the country, but Kentucky has approximately 50 rail-trail miles; and

WHEREAS, the Lexington/Big Sandy Rail Trail was designated a Community Millennium Trail and has the potential to improve the quality of life for Kentucky citizens and connect communities stretching 109 miles from Lexington to Ashland;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The Legislative Research Commission shall establish a task force to examine the development of the Lexington/Big Sandy Rail Trail and suggest a strategy for its completion. The task force shall be composed of twenty-five (25) members, to be approved by the Legislative Research Commission, to include:

(1) The county judge/executive, or a designee, from the following counties:

(a) Bath;

(b) Boyd;

(c) Carter;

(d) Clark;

(e) Montgomery; and

(f) Rowan;

(2) The mayor, or a designee, from the following cities:

(a) Grayson;

(b) Lexington;

(c) Morehead;

(d) Mount Sterling;

(e) Olive Hill; and

(f) Winchester;

(3) The secretary, or a designee, from the following agencies:

(a) Tourism Development Cabinet;

(b) Cabinet for Economic Development;

(c) Transportation Cabinet; and

(d) Department for Local Government;

(4) The executive director of the Kentucky Heritage Council, or a designee;

(5) The Governor, or a designee;

(6) Six members of the General Assembly, three members appointed by the President of the Senate, and three members appointed by the Speaker of the House of Representatives. One of the Senate members shall be appointed co-chair by the President of the Senate, and one of the House of Representative members shall be appointed co-chair by the Speaker of the

House of Representatives.

(7) One member of the Kentucky Rails to Trails Council, suggested by the Kentucky Rails to Trails Council.

Section 2. The task force shall report its findings and recommendations to the Legislative Research Commission for referral to the appropriate committee or committees no later than December 15, 2002. The report shall include at least the following:

(1) Solutions for overcoming existing barriers to the trail's development;

(2) Potential funding sources to complete the trail;

(3) Projected date for completion of the trail;

(4) Recommendations on entities best suited to implement the strategy for the trail's completion; and

(5) Recommendations on entities best suited to administer the trail, in both the short and long term.

Section 3. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Banking and Insurance reported **SJR 153** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SJR 153, A JOINT RESOLUTION directing the Department of Financial Institutions to conduct a study of establishment of an individual development accounts program in Kentucky.

WHEREAS, individual development accounts (IDAs) are dedicated savings accounts at local financial institutions for low-income persons that are managed by community organizations; and

WHEREAS, typically each dollar deposited by low-income account holders are matched at a rate of $1 to $4 and the private contributor of matching funds is provided a tax credit; and

WHEREAS, the account holder can withdraw the funds tax-free to use for certain designated expenses such as postsecondary education, first home purchase, home renovation, home computer, and automobile purchase or repair; and

WHEREAS, one-third of all American households have zero or negative net financial assets and IDAs provide banks with the opportunity to reach persons without bank accounts and offer access to greater wealth and stability; and

WHEREAS, some banks in Kentucky have voluntarily engaged in IDA partnerships; and

WHEREAS, the Savings for Working Families Act of 2002, reintroduced on February 7 in Congress, if passed, will allow almost one million individuals to access IDAs by providing incentives to financial institutions to match IDA saving; and

WHEREAS, in less than 10 years thirty-two states have enacted legislation on IDAs;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Department of Financial Institutions is directed to conduct a study of, and make recommendations on, the establishment of an individual development accounts program for low-income Kentuckians. The Department shall consider the need for legislation, tax incentives for deposit and withdrawals from accounts, tax credits for entities that provide private matching funds, and the effects on state revenues.

Section 2. All licensed financial institutions in the Commonwealth shall cooperate with the Department of Financial Institutions in conducting this study.

Section 3. The study findings and recommendations shall be reported to the Legislative Research Commission no later than October 30, 2003.

The Committee on Local Government reported **SB 184,** with Committee Substitute and Committee Amendment attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 184, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67A.360 is amended to read as follows:

Words and phrases, wherever used in KRS 67A.360 to 67A.690, unless a different meaning is clearly indicated by the context, shall have the following meanings:

(1) "Fund" shall mean the "Policemen's and Firefighter's Retirement Fund of the .... Urban-County Government";

(2) "Government" shall mean the governmental unit of any urban-county government in the Commonwealth of Kentucky, including the governmental unit of any former urban-county government which changes its form of government, class or other status;

(3) "Department" shall mean the police department or the fire department of a government;

(4) "Board" shall mean the board of trustees provided in KRS 67A.360 to 67A.690 as the agency responsible for the direction and operation of the affairs and business of the fund. The board shall hold title to all assets of the fund;

(5) "Member" shall mean any member of the police or fire department who is included in the membership of the fund;

(6) "Service" shall mean actual employment in a department of a government, or a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government, for salary or compensation, or service otherwise creditable as herein provided;

(7) "Prior service" shall mean service rendered prior to the date of establishment of the fund or the fund of a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government;

(8) "Membership service" shall mean service rendered on or after the date of establishment of the fund or the fund of a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government;

(9) "Total service" shall mean prior service, membership service, and service credit purchased by a member as provided in KRS 67A.402;

(10) "Regular interest" shall mean such rate of interest as shall be fixed by the board, provided that for the first five (5) years of operation of the fund the rate shall be not less than three percent (3%) per annum, compounded annually;

(11) "Occupational disability" shall mean disability due to occupational causes, including but not limited to injury or disease. The presumption of contracting disease "while on active duty as a result of strain or the inhalation of noxious fumes, poisons or gases" created by KRS 79.080 shall be a presumption of "occupational disability" hereunder;

(12) "Occupational death" shall mean death due to occupational causes, including, but not limited to, injury or disease;

(13) "Average salary" shall mean the highest average annual salary of the member for any three (3) consecutive years of service within the total service of the member, including employee contributions picked up after August 1, 1982 pursuant to KRS 67A.510(2);

(14) The masculine pronoun, wherever used, shall include the feminine pronoun; and widow shall include widower;

(15) The fiscal year of the fund shall date from July 1 of any year to June 30 of the next year following;

(16) "Total disability" shall mean a disability which substantially precludes a person from performing with reasonable regularity the substantial and material parts of any gainful work or occupation in the service of the department that he would be competent to perform were it not for the fact that the impairment is founded upon conditions which render it reasonably certain that it will continue indefinitely;

(17) "Minor child" includes, as applicable, a child under the age of twenty-three (23) still engaged in full-time education;

(18) "Mayor," "commissioner of finance," "commissioner of public safety," and "director of human resources" shall mean the persons holding the office or job most closely resembling the ordinary meaning of such terms, in the event that a government does not have an office so described; and

(19) "Salary" means the member's actual base rate of pay and any other compensation that the government chooses to include. "Salary" ***shall***~~[may]~~ include longevity pay, training incentive pay, and hazardous duty and special duty pay but shall exclude uniform and equipment allowances, uniform maintenance allowances, education incentive pay, annual payments for excess accumulated sick leave credit, compensation for overtime work, except for scheduled overtime of fire department members, and any other compensation excluded by the government.

Section 2. KRS 67A.410 is amended to read as follows:

(1) Any member may, at his option, retire on a service retirement annuity upon or after attainment of the age of forty-six (46) years, if he shall have completed at least twenty (20) years of total service. Upon fulfillment of these terms, the board shall grant the retirement annuity upon receipt of the application of the member.

(2) Any member who withdraws from service prior to age forty-six (46) years after having completed at least twenty (20) years of total service, and who does not accept a refund of contributions, shall receive, upon application, a certificate entitling him to a service retirement annuity upon his attainment of age forty-six (46) and specifying the amount of the annuity earned and accrued at the date of withdrawal from service.

(3) Upon the death, prior to age forty-six (46), of a member holding a certificate granted pursuant to subsection (2) of this section, the surviving spouse shall receive an annuity equal to sixty percent (60%) of the annuity specified on the certificate, subject to the conditions and additional benefits found in KRS 67A.450(1)(a), 67A.450(1)(b), 67A.450(2), and 67A.450(3).

(4) The benefits provided in KRS 67A.600 and 67A.690 to an eligible member who retires or withdraws from service under the provisions of subsection (1) or (2) of this section after July 15, 1994, or to the member's surviving spouse or dependent children, shall be calculated when the member is retired for one (1) year or attains the age of forty-seven (47), whichever is later, or would have been retired for one (1) year or reached the age of forty-seven (47), whichever is later, if the member died before being retired one (1) year or reaching the age of forty-seven (47).

(5) On or before March 3, 2003, the board shall provide for a vote by the full active membership on a provision that would allow members to retire with full benefits after twenty (20) years of total service, regardless of age. If a majority of the

active membership voting votes in favor of a twenty (20) year service provision, the urban-county government, in coordination with the board, shall enact the twenty (20) year service provision within a period of six (6) months. Notwithstanding any statute to the contrary, any member retiring after the enactment of the twenty (20) year service provision, if enacted, shall be eligible to retire with twenty (20) years of service regardless of age.

Section 3. KRS 67A.430 is amended to read as follows:

(1) The rate of retirement annuity shall be two and one-half percent (2.5%) of average salary, as defined in KRS 67A.360(13), for each year of total service. Fractional periods of service shall be considered in the calculation of such annuities according to the aforesaid rate. Provided, however, that no retiree, or his surviving widow, whether he retired before or after June 16, 1972, under this section shall receive a pension of less than $100 a month and when Social Security benefits are increased the minimum shall be increased by a like amount, provided that the increase shall not exceed five percent (5%).

(2) Any retiree or surviving spouse who as of July 1, 2001, is receiving a monthly annuity of less than one thousand dollars ($1,000) shall have the pension increased to one thousand dollars ($1,000), and the board ***shall***[~~may~~] increase this annuity ***at the same rate*** as ***annually*** provided by KRS 67A.690(1)***, and such increase shall be determined and granted annually thereafter by the board***.

Section 4. KRS 67A.440 is amended to read as follows:

(1) Upon death of a member due to occupational causes, regardless of length of service, his surviving widow shall be entitled immediately upon cessation of salary to an annuity equal to sixty percent (60%) of the member's last rate of salary. This annuity shall be payable until she dies[~~ or remarries~~]. In addition, if any minor children of the member, under age eighteen (18), survive the member, the widow or parent or legal guardian shall receive on account of each child, ten percent (10%) of the member's last rate of salary until each child attains age eighteen (18). In the case of a child regularly engaged in full-time educational activities, payments shall continue until age twenty-three (23), but payments shall be made directly to a child between the ages of eighteen (18) and twenty-three (23). The combined payments to a widow and minor children shall not exceed seventy-five percent (75%) of his final rate of salary. When more than one (1) child survives the member, the amount payable by reason of such children shall be divided equally among them.

(2) If the member is not survived by a widow, or, if she remarries, and there are minor children of the member, the following benefits shall be paid:

(a) One (1) minor child, fifty percent (50%) of the final rate of salary;

(b) Two (2) minor children, an additional fifteen percent (15%) of final salary;

(c) Three (3) or more minor children, an additional ten percent (10%) of final salary, subject to a maximum combined payment of seventy-five percent (75%) of the member's final rate of salary.

These benefits shall be divided in equal amounts for each child and paid to the parent or legal guardian of each child under eighteen (18). In the case of a child regularly engaged in full-time educational activities, payments shall continue until age twenty-three (23), but payments shall be made directly to the child between the ages of eighteen (18) and twenty-three (23). As eligibility of children expires, the total annuity payment shall be reduced by percentage amount in reverse order.

(3) If neither a widow nor minor children eligible for benefits survive the member, each dependent parent shall be entitled to an annuity equal to twenty-five percent (25%) of the member's last rate of salary, or fifty percent (50%) to both parents.

Section 5. KRS 67A.520 is amended to read as follows:

The government shall make current contributions to the fund on an actuarially funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:

(1) An annual amount resulting from the application of a rate percent of salaries of active members determined by the entry age normal cost funding method. Such rate percent shall be fixed by the board every ***two (2)***[~~three (3)~~] years, within six (6) months after the actuarial study required by subsection (6) of KRS 67A.560 (actuarial survey of the fund), and shall be in effect for a period of at least ***two (2)***[~~three (3)~~] years.

(2) An amount resulting from the application of a rate percent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.

(3) In any event, the total contribution of the government shall be at least seventeen percent (17%) of the salaries of the active members participating in the fund.

(4) In addition to other remedies provided by law, any member of the fund or any annuitant may obtain in the Circuit Court of any county in which the government is located an injunction or mandamus requiring the government to comply herewith.

Section 6. KRS 67A.580 is amended to read as follows:

(1) An adequate system of accounts and records shall be established and maintained for the fund that will reflect fully the requirements of the provisions of KRS 67A.360 to 67A.690. This system shall be integrated, to the extent possible with the accounts, records, and procedures of the government to the end that the same shall operate most effectively and at minimum expense, and that duplication of records and accounts may be avoided.

(2) All assets of the fund shall be credited according to the purposes for which they are held in the following designated

reserve accounts:

(a) Members' Contribution Reserve. The amounts contributed by the members, including those picked up pursuant to KRS 67A.510(2), shall be credited to this reserve, together with regular interest thereon as herein provided. An individual account shall be maintained for each member, to which shall be credited the amounts of his contributions or amounts picked up by the urban-county government. Upon the granting of a service retirement annuity, disability annuity, or survivor's annuity or benefit, the accumulated contributions to the credit of the member concerned shall be transferred from this reserve to the retirement reserve. Refunds and death payments representing member's contributions shall be charged to this reserve.

(b) Employer's Contribution Reserve. The amounts contributed by the government under the provisions hereof, for service retirement annuity, disability retirement annuity, and benefits to survivors covering membership service and prior service, shall be credited to this reserve. Upon the granting of a service retirement annuity, disability retirement annuity, or survivor's benefit, an amount representing the excess of the actuarial value of the annuity, or benefit over the accumulated contributions of the member, shall be transferred from this reserve to the retirement reserve.

(c) Retirement Reserve. Upon the granting of a service retirement annuity, disability retirement annuity, or survivor's benefit, the accumulated contributions of the member, including those picked up pursuant to KRS 67A.510(2), and an amount representing the excess of the actuarial value of the annuity or benefit over such accumulated contributions, shall be transferred to this reserve from the member's contribution reserve and employer's contribution reserve, respectively. All income from investments, including gains on investment transactions, shall be credited to this reserve. All losses on investments shall be charged to this reserve. All payments on account of any annuity made by the fund shall be charged to this reserve. Any excess balance in this reserve, as determined by actuarial valuation as of the close of any fiscal year, shall be applied to reduce the ***employee's***[~~government's~~] contributions for membership service for the fiscal years next following the date of such valuation. Any deficiency in this reserve shall be removed by an increase in the amount of government's contributions for future membership service.

Section 7. KRS 67A.690 is amended to read as follows:

(1) When a member has been retired for one (1) year or attained forty-seven (47) years of age, whichever is later, or when he would have been retired for one (1) year or attained forty-seven (47) years of age in the event the member is deceased, the board shall increase his retirement annuity or the annuity paid to his widow or dependent children by not less than two percent (2%) nor more than five percent (5%) per year, compounded annually; and such increase shall be determined and granted annually thereafter by the board.

(2)[~~(a) Notwithstanding the provisions of subsection (1), any member who retires under a disability arising from any cause other than in the performance of duty shall be entitled to an increase in his retirement annuity, or in the event he is deceased, in the annuity paid to his widow or dependent children by two percent (2%) per year; and such increase shall be granted annually thereafter by the board. Such increase shall be compounded until and including the date upon which the member would have been retired for one (1) year or the date upon which he has attained forty-seven (47) years of age, whichever is later, or would have been retired for one (1) year or would have attained forty-seven (47) years of age in the event the member is deceased. Thereafter, the annuity paid to the member or to his widow or to the guardian of his minor children shall be increased as provided in subsection (1) of this section.~~

~~(b)~~] Beginning July 1, 2001, notwithstanding any other provision to the contrary, any member, retired under occupational disability, as provided in KRS 67A.460, ***or nonoccupational disability*** shall be entitled to an increase in his or her annuity, or in the event of death the annuity paid to his or her spouse or dependent, after he or she has been retired one (1) year regardless of age or date of retirement. The amount of the annual increase shall be the same as described in subsection (1) of this section, compounded annually, and the increase shall be determined and granted annually thereafter by the board. For a member retired on occupational disability for a length of time in excess of one (1) year prior to June 21, 2001, the board shall increase the member's annuity as described in this paragraph, on July 1, 2001, and each July 1 thereafter.

(3) (a) A member who retired pursuant to the provisions of KRS 67A.360 to 67A.690 prior to July 15, 1980, or pursuant to KRS 67A.690(2) after July 15, 1980, or his surviving spouse or eligible surviving children, shall receive an upward adjustment in their retirement or survivor's annuity by calculation of a two percent (2%) annual increase compounded from July 1, 1974, until July 15, 1980, and annual increases compounded, from July 15, 1980, until July 15, 1990, in the same percentage amount by which the pension board increased other pensions pursuant to subsection (1) of this section for those same years. For purposes of calculation, unless the member retired under disability, the member's or survivor's first increase shall occur after the member was retired for one (1) year or attained the age of forty-seven (47), whichever was later, or would have been retired one (1) year or reached the age of forty-seven (47), whichever was later, in the event the member died before being retired one (1) year or reaching the age of forty-seven (47). In the case of retirement under disability, no age or length of retirement criteria shall apply.

(b) After calculation of the new annuity level, members of age forty-seven (47) or more affected by this subsection, or survivors of a member who would have been forty-seven (47) or more in the event the member is deceased, shall be granted the same annual increase granted to retirees who retired July 15, 1980, or thereafter, pursuant to subsection (1) of this section, and the annuity on which this cost-of-living increment is based shall be the annuity level reached through the addition of annual compounded increases calculated pursuant to paragraph (a) of this subsection, but not less than the annuity level in effect prior to July 15, 1990. If the member has not attained the age of forty-seven (47) or would not have attained the age of forty-seven (47) in the event the member is deceased, then the member or survivor shall receive increases of two percent (2%) compounded annually until the member attains or would have attained age forty-seven (47), at which time the same annual increase granted to retirees who retired July 15, 1980, or thereafter shall apply.

(4) The provisions of subsection (3) of this section shall not apply to any retiree or surviving spouse who receives a minimum retirement annuity, annually adjusted, pursuant to KRS 67A.430. If, in the future, any retiree or spouse annuity granted pursuant to this section falls below the adjusted minimum annuity, the affected retiree or spouse shall be granted, from that time forward, the adjusted minimum annuity calculated pursuant to KRS 67A.430.

SECTION 8. A NEW SECTION OF KRS 67A.210 TO 67A.350 IS CREATED TO READ AS FOLLOWS:

(1) All members of the policemen's and firefighters' retirement fund of the urban-county government, operated pursuant to KRS 67A.360 to 67A.690, and all members of the urban-county government city employees pension fund who retired prior to July 1, 1999, and who did not terminate their participation in the group health insurance plan provided by the urban-county government before that date, and all members who retire on or after July 1, 1999, or who withdraw from service on a certificate pursuant to subsection (2) of Section 2 of this Act, shall continue to be eligible to participate, at the member's cost, in a group health insurance plan approved by the urban-county council for such retirees.

(2) The urban-county government shall provide, on behalf of all eligible members of the policemen's and firefighters' retirement fund and city employees pension, the following benefits:

(a) A sum equal to the single premium for the plan coverage selected by the retiree, but not more than one hundred percent (100%) of the urban-county government's contribution to the health insurance component of the benefit pool for current urban-county government employees; and

(b) Upon the death of a member of the policemen's and firefighters' retirement fund due to occupational causes, the urban-county government shall pay to the approved provider of the group health insurance plan one hundred percent (100%) of the cost of the family medical coverage for the member's surviving spouse and dependent children as long as they remain eligible for a monthly retirement allowance from the retirement fund.

(3) No benefits shall be available under this section to retired members who were not, immediately prior to July 1, 1999, participants in the group health insurance plan coverage provided to urban-county government employees and retirees or who retire on or after July 1, 1999, and, at the time of their retirement, do not elect to participate in the group health insurance plan coverage provided pursuant to subsection (1) of this section.

(4) Benefits shall be available under this section to members of the policemen's and firefighters' retirement fund who withdraw from service on a certificate pursuant to subsection (2) of Section 2 of this Act when they attain the age of forty-six (46) years if, at the time they withdraw from service, they elect to participate in the group health insurance plan coverage provided pursuant to subsection (1) of this section upon attaining age forty-six (46).

(5) All payments shall be made to the approved provider of the group health insurance plan, not to the retiree, and the retiree shall not be entitled to receive any portion of the government contribution remaining after payment is made to the approved provider.

(6) Group rates under the group health insurance plan approved by the urban-county council under subsection (1) of this section shall be made available to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a qualified and participating retiree, if the premium for the spouse, dependent, or disabled child is paid by the retired member, spouse, dependent, or disabled child, by payroll deduction or similar method.

The Committee Substitute to **SB 184** is as follows:

SB 184, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67A.360 is amended to read as follows:

Words and phrases, wherever used in KRS 67A.360 to 67A.690, unless a different meaning is clearly indicated by the context, shall have the following meanings:

(1) "Fund" shall mean the "Policemen's and Firefighter's Retirement Fund of the .... Urban-County Government";

(2) "Government" shall mean the governmental unit of any urban-county government in the Commonwealth of Kentucky, including the governmental unit of any former urban-county government which changes its form of government, class or other status;

(3) "Department" shall mean the police department or the fire department of a government;

(4) "Board" shall mean the board of trustees provided in KRS 67A.360 to 67A.690 as the agency responsible for the direction

and operation of the affairs and business of the fund. The board shall hold title to all assets of the fund;

(5) "Member" shall mean any member of the police or fire department who is included in the membership of the fund;

(6) "Service" shall mean actual employment in a department of a government, or a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government, for salary or compensation, or service otherwise creditable as herein provided;

(7) "Prior service" shall mean service rendered prior to the date of establishment of the fund or the fund of a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government;

(8) "Membership service" shall mean service rendered on or after the date of establishment of the fund or the fund of a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government;

(9) "Total service" shall mean prior service, membership service, and service credit purchased by a member as provided in KRS 67A.402;

(10) "Regular interest" shall mean such rate of interest as shall be fixed by the board, provided that for the first five (5) years of operation of the fund the rate shall be not less than three percent (3%) per annum, compounded annually;

(11) "Occupational disability" shall mean disability due to occupational causes, including but not limited to injury or disease. The presumption of contracting disease "while on active duty as a result of strain or the inhalation of noxious fumes, poisons or gases" created by KRS 79.080 shall be a presumption of "occupational disability" hereunder;

(12) "Occupational death" shall mean death due to occupational causes, including, but not limited to, injury or disease;

(13) "Average salary" shall mean the highest average annual salary of the member for any three (3) consecutive years of service within the total service of the member, including employee contributions picked up after August 1, 1982 pursuant to KRS 67A.510(2);

(14) The masculine pronoun, wherever used, shall include the feminine pronoun; and widow shall include widower;

(15) The fiscal year of the fund shall date from July 1 of any year to June 30 of the next year following;

(16) "Total disability" shall mean a disability which substantially precludes a person from performing with reasonable regularity the substantial and material parts of any gainful work or occupation in the service of the department that he would be competent to perform were it not for the fact that the impairment is founded upon conditions which render it reasonably certain that it will continue indefinitely;

(17) "Minor child" includes, as applicable, a child under the age of twenty-three (23) still engaged in full-time education;

(18) "Mayor," "commissioner of finance," "commissioner of public safety," and "director of human resources" shall mean the persons holding the office or job most closely resembling the ordinary meaning of such terms, in the event that a government does not have an office so described; and

(19) "Salary" means the member's actual base rate of pay and any other compensation that the government chooses to include. "Salary" ***shall***[~~may~~] include longevity pay, training incentive pay, and hazardous duty and special duty pay but shall exclude uniform and equipment allowances, uniform maintenance allowances, education incentive pay, annual payments for excess accumulated sick leave credit, compensation for overtime work, except for scheduled overtime of fire department members, and any other compensation excluded by the government.

Section 2. KRS 67A.410 is amended to read as follows:

(1) Any member may, at his option, retire on a service retirement annuity upon or after attainment of the age of forty-six (46) years, if he shall have completed at least twenty (20) years of total service. Upon fulfillment of these terms, the board shall grant the retirement annuity upon receipt of the application of the member.

(2) Any member who withdraws from service prior to age forty-six (46) years after having completed at least twenty (20) years of total service, and who does not accept a refund of contributions, shall receive, upon application, a certificate entitling him to a service retirement annuity upon his attainment of age forty-six (46) and specifying the amount of the annuity earned and accrued at the date of withdrawal from service.

(3) Upon the death, prior to age forty-six (46), of a member holding a certificate granted pursuant to subsection (2) of this section, the surviving spouse shall receive an annuity equal to sixty percent (60%) of the annuity specified on the certificate, subject to the conditions and additional benefits found in KRS 67A.450(1)(a), 67A.450(1)(b), 67A.450(2), and 67A.450(3).

(4) The benefits provided in KRS 67A.600 and 67A.690 to an eligible member who retires or withdraws from service under the provisions of subsection (1) or (2) of this section after July 15, 1994, or to the member's surviving spouse or dependent children, shall be calculated when the member is retired for one (1) year or attains the age of forty-seven (47), whichever is later, or would have been retired for one (1) year or reached the age of forty-seven (47), whichever is later, if the member died before being retired one (1) year or reaching the age of forty-seven (47).

(5) On or before March 3, 2003, the board shall provide for a vote by the full active membership on a provision that would allow members to retire with full benefits after twenty (20) years of total service, regardless of age. If a majority of the active membership voting votes in favor of a twenty (20) year service provision, the urban-county government, in coordination with the board, shall enact the twenty (20) year service provision within a period of six (6) months.

Notwithstanding any statute to the contrary, any member retiring after the enactment of the twenty (20) year service provision, if enacted, shall be eligible to retire with twenty (20) years of service regardless of age.

Section 3. KRS 67A.430 is amended to read as follows:

(1) The rate of retirement annuity shall be two and one-half percent (2.5%) of average salary, as defined in KRS 67A.360(13), for each year of total service. Fractional periods of service shall be considered in the calculation of such annuities according to the aforesaid rate. Provided, however, that no retiree, or his surviving widow, whether he retired before or after June 16, 1972, under this section shall receive a pension of less than $100 a month and when Social Security benefits are increased the minimum shall be increased by a like amount, provided that the increase shall not exceed five percent (5%).

(2) Any retiree or surviving spouse who as of July 1, 2001, is receiving a monthly annuity of less than one thousand dollars ($1,000) shall have the pension increased to one thousand dollars ($1,000), and the board ***shall***[~~may~~] increase this annuity ***at the same rate*** as ***annually*** provided by KRS 67A.690(1)***, and such increase shall be determined and granted annually thereafter by the board***.

Section 4. KRS 67A.440 is amended to read as follows:

(1) Upon death of a member due to occupational causes, regardless of length of service, his surviving widow shall be entitled immediately upon cessation of salary to an annuity equal to sixty percent (60%) of the member's last rate of salary. This annuity shall be payable until she dies[~~ or remarries~~]. In addition, if any minor children of the member, under age eighteen (18), survive the member, the widow or parent or legal guardian shall receive on account of each child, ten percent (10%) of the member's last rate of salary until each child attains age eighteen (18). In the case of a child regularly engaged in full-time educational activities, payments shall continue until age twenty-three (23), but payments shall be made directly to a child between the ages of eighteen (18) and twenty-three (23). The combined payments to a widow and minor children shall not exceed seventy-five percent (75%) of his final rate of salary. When more than one (1) child survives the member, the amount payable by reason of such children shall be divided equally among them.

(2) If the member is not survived by a widow, or, if she remarries, and there are minor children of the member, the following benefits shall be paid:

(a) One (1) minor child, fifty percent (50%) of the final rate of salary;

(b) Two (2) minor children, an additional fifteen percent (15%) of final salary;

(c) Three (3) or more minor children, an additional ten percent (10%) of final salary, subject to a maximum combined payment of seventy-five percent (75%) of the member's final rate of salary.

These benefits shall be divided in equal amounts for each child and paid to the parent or legal guardian of each child under eighteen (18). In the case of a child regularly engaged in full-time educational activities, payments shall continue until age twenty-three (23), but payments shall be made directly to the child between the ages of eighteen (18) and twenty-three (23). As eligibility of children expires, the total annuity payment shall be reduced by percentage amount in reverse order.

(3) If neither a widow nor minor children eligible for benefits survive the member, each dependent parent shall be entitled to an annuity equal to twenty-five percent (25%) of the member's last rate of salary, or fifty percent (50%) to both parents.

Section 5. KRS 67A.520 is amended to read as follows:

The government shall make current contributions to the fund on an actuarially funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:

(1) An annual amount resulting from the application of a rate percent of salaries of active members determined by the entry age normal cost funding method. Such rate percent shall be fixed by the board every ***two (2)***[~~three (3)~~] years, within six (6) months after the actuarial study required by subsection (6) of KRS 67A.560 (actuarial survey of the fund), and shall be in effect for a period of at least ***two (2)***[~~three (3)~~] years.

(2) An amount resulting from the application of a rate percent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.

(3) In any event, the total contribution of the government shall be at least seventeen percent (17%) of the salaries of the active members participating in the fund.

(4) In addition to other remedies provided by law, any member of the fund or any annuitant may obtain in the Circuit Court of any county in which the government is located an injunction or mandamus requiring the government to comply herewith.

Section 6. KRS 67A.580 is amended to read as follows:

(1) An adequate system of accounts and records shall be established and maintained for the fund that will reflect fully the requirements of the provisions of KRS 67A.360 to 67A.690. This system shall be integrated, to the extent possible with the accounts, records, and procedures of the government to the end that the same shall operate most effectively and at minimum expense, and that duplication of records and accounts may be avoided.

(2) All assets of the fund shall be credited according to the purposes for which they are held in the following designated reserve accounts:

(a) Members' Contribution Reserve. The amounts contributed by the members, including those picked up pursuant to

KRS 67A.510(2), shall be credited to this reserve, together with regular interest thereon as herein provided. An individual account shall be maintained for each member, to which shall be credited the amounts of his contributions or amounts picked up by the urban-county government. Upon the granting of a service retirement annuity, disability annuity, or survivor's annuity or benefit, the accumulated contributions to the credit of the member concerned shall be transferred from this reserve to the retirement reserve. Refunds and death payments representing member's contributions shall be charged to this reserve.

(b) Employer's Contribution Reserve. The amounts contributed by the government under the provisions hereof, for service retirement annuity, disability retirement annuity, and benefits to survivors covering membership service and prior service, shall be credited to this reserve. Upon the granting of a service retirement annuity, disability retirement annuity, or survivor's benefit, an amount representing the excess of the actuarial value of the annuity, or benefit over the accumulated contributions of the member, shall be transferred from this reserve to the retirement reserve.

(c) Retirement Reserve. Upon the granting of a service retirement annuity, disability retirement annuity, or survivor's benefit, the accumulated contributions of the member, including those picked up pursuant to KRS 67A.510(2), and an amount representing the excess of the actuarial value of the annuity or benefit over such accumulated contributions, shall be transferred to this reserve from the member's contribution reserve and employer's contribution reserve, respectively. All income from investments, including gains on investment transactions, shall be credited to this reserve. All losses on investments shall be charged to this reserve. All payments on account of any annuity made by the fund shall be charged to this reserve. Any excess balance in this reserve, as determined by actuarial valuation as of the close of any fiscal year, shall be applied to reduce the ***employee's***[~~government's~~] contributions for membership service for the fiscal years next following the date of such valuation. Any deficiency in this reserve shall be removed by an increase in the amount of government's contributions for future membership service.

Section 7. KRS 67A.690 is amended to read as follows:

(1) When a member has been retired for one (1) year or attained forty-seven (47) years of age, whichever is later, or when he would have been retired for one (1) year or attained forty-seven (47) years of age in the event the member is deceased, the board shall increase his retirement annuity or the annuity paid to his widow or dependent children by not less than two percent (2%) nor more than five percent (5%) per year, compounded annually; and such increase shall be determined and granted annually thereafter by the board.

(2)[~~(a) Notwithstanding the provisions of subsection (1), any member who retires under a disability arising from any cause other than in the performance of duty shall be entitled to an increase in his retirement annuity, or in the event he is deceased, in the annuity paid to his widow or dependent children by two percent (2%) per year; and such increase shall be granted annually thereafter by the board. Such increase shall be compounded until and including the date upon which the member would have been retired for one (1) year or the date upon which he has attained forty-seven (47) years of age, whichever is later, or would have been retired for one (1) year or would have attained forty-seven (47) years of age in the event the member is deceased. Thereafter, the annuity paid to the member or to his widow or to the guardian of his minor children shall be increased as provided in subsection (1) of this section.~~

~~(b)~~] Beginning July 1, 2001, notwithstanding any other provision to the contrary, any member, retired under occupational disability, as provided in KRS 67A.460, ***or nonoccupational disability*** shall be entitled to an increase in his or her annuity, or in the event of death the annuity paid to his or her spouse or dependent, after he or she has been retired one (1) year regardless of age or date of retirement. The amount of the annual increase shall be the same as described in subsection (1) of this section, compounded annually, and the increase shall be determined and granted annually thereafter by the board. For a member retired on occupational disability for a length of time in excess of one (1) year prior to June 21, 2001, the board shall increase the member's annuity as described in this paragraph, on July 1, 2001, and each July 1 thereafter.

(3) (a) A member who retired pursuant to the provisions of KRS 67A.360 to 67A.690 prior to July 15, 1980, or pursuant to KRS 67A.690(2) after July 15, 1980, or his surviving spouse or eligible surviving children, shall receive an upward adjustment in their retirement or survivor's annuity by calculation of a two percent (2%) annual increase compounded from July 1, 1974, until July 15, 1980, and annual increases compounded, from July 15, 1980, until July 15, 1990, in the same percentage amount by which the pension board increased other pensions pursuant to subsection (1) of this section for those same years. For purposes of calculation, unless the member retired under disability, the member's or survivor's first increase shall occur after the member was retired for one (1) year or attained the age of forty-seven (47), whichever was later, or would have been retired one (1) year or reached the age of forty-seven (47), whichever was later, in the event the member died before being retired one (1) year or reaching the age of forty-seven (47). In the case of retirement under disability, no age or length of retirement criteria shall apply.

(b) After calculation of the new annuity level, members of age forty-seven (47) or more affected by this subsection, or survivors of a member who would have been forty-seven (47) or more in the event the member is deceased, shall be granted the same annual increase granted to retirees who retired July 15, 1980, or thereafter, pursuant to subsection (1) of this section, and the annuity on which this cost-of-living increment is based shall be the annuity level reached through the addition of annual compounded increases calculated pursuant to paragraph (a) of this subsection, but not less than the annuity level in effect prior to July 15, 1990. If the member has not attained the age of forty-seven (47) or would not have attained the age of forty-seven (47) in the event the member is deceased, then the member or survivor shall receive increases of two percent (2%) compounded annually until the member attains or would have attained age forty-seven (47), at which time the same annual increase granted to retirees who retired July 15, 1980, or thereafter shall apply.

(4) The provisions of subsection (3) of this section shall not apply to any retiree or surviving spouse who receives a minimum retirement annuity, annually adjusted, pursuant to KRS 67A.430. If, in the future, any retiree or spouse annuity granted pursuant to this section falls below the adjusted minimum annuity, the affected retiree or spouse shall be granted, from that time forward, the adjusted minimum annuity calculated pursuant to KRS 67A.430.

SECTION 8. A NEW SECTION OF KRS 67A.210 TO 67A.350 IS CREATED TO READ AS FOLLOWS:

(1) All members of the policemen's and firefighters' retirement fund of the urban-county government, operated pursuant to KRS 67A.360 to 67A.690, and all members of the urban-county government city employees pension fund who retired prior to July 1, 1999, and who did not terminate their participation in the group health insurance plan provided by the urban-county government before that date, and all members who retire on or after July 1, 1999, or who withdraw from service on a certificate pursuant to subsection (2) of Section 2 of this Act, shall continue to be eligible to participate, at the member's cost, in a group health insurance plan approved by the urban-county council for such retirees.

(2) The urban-county government shall provide, on behalf of all eligible members of the policemen's and firefighters' retirement fund and city employees pension, the following benefits:

(a) A sum equal to the single premium for the plan coverage selected by the retiree, but not more than one hundred percent (100%) of the urban-county government's contribution to the health insurance component of the benefit pool for current urban-county government employees; and

(b) Upon the death of a member of the policemen's and firefighters' retirement fund due to occupational causes, the urban-county government shall pay to the approved provider of the group health insurance plan one hundred percent (100%) of the cost of the family medical coverage for the member's surviving spouse and dependent children as long as they remain eligible for a monthly retirement allowance from the retirement fund.

(3) No benefits shall be available under this section to retired members who were not, immediately prior to July 1, 1999, participants in the group health insurance plan coverage provided to urban-county government employees and retirees or who retire on or after July 1, 1999, and, at the time of their retirement, do not elect to participate in the group health insurance plan coverage provided pursuant to subsection (1) of this section.

(4) Benefits shall be available under this section to members of the policemen's and firefighters' retirement fund who withdraw from service on a certificate pursuant to subsection (2) of Section 2 of this Act when they attain the age of forty-six (46) years if, at the time they withdraw from service, they elect to participate in the group health insurance plan coverage provided pursuant to subsection (1) of this section upon attaining age forty-six (46).

(5) All payments shall be made to the approved provider of the group health insurance plan, not to the retiree, and the retiree shall not be entitled to receive any portion of the government contribution remaining after payment is made to the approved provider.

(6) Group rates under the group health insurance plan approved by the urban-county council under subsection (1) of this section shall be made available to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a qualified and participating retiree, if the premium for the spouse, dependent, or disabled child is paid by the retired member, spouse, dependent, or disabled child, by payroll deduction or similar method.

SECTION 9. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "local government" means the governing body of:

(a) A consolidated local government organized under KRS Chapter 67C; or

(b) An urban-county government organized under KRS Chapter 67A.

(2) Notwithstanding any other provision of this chapter, a local government that complies with the requirements of this section may be granted authority over the regulation of taxicabs in that local government's jurisdiction.

(3) A local government that desires to regulate taxicab service within its jurisdiction shall:

(a) Adopt a resolution by October 1 of any given year expressing its intent to exercise regulatory authority over taxicabs and requesting that the Transportation Cabinet grant the local government regulatory authority over taxicabs; and

(b) Enact an ordinance by January 1 of the following year pursuant to subsection (4) of this section and submit it to the cabinet for approval pursuant to subsection (5) of this section.

(4) A local government that desires to regulate taxicab service within its jurisdiction shall adopt an ordinance regarding the regulation of taxicabs which addresses the following areas of public comfort, safety, and convenience:

(a) A local taxicab permit system to ensure the safety and road worthiness of each taxicab as outlined in Section 10 of this Act, including inspection requirements, out-of-service criteria, and penalties for submitting fraudulent

service records. All taxicabs operated under this section shall be required to be registered and display registration plates under the provisions of KRS Chapters 186 and 186A;

(b) A local taxicab driver permit system to ensure the fitness of drivers, including criminal background checks, display of permits, and revocation or suspension of local driver permits. All drivers of taxicabs operated under this section shall be required to possess a motor vehicle operator's license under the provisions of KRS Chapter 186;

(c) Rates and fares, and receipts therefor;

(d) Procedures for considering applications from a permit holder to change the number of taxicabs that a taxi permit holder has in operation;

(e) Procedures for the sale, transfer, and leasing of taxicab permits;

(f) Routes and areas of service, including changes of route or abandonment of service areas;

(g) Dispatching of taxicabs;

(h) Bonding and liability insurance requirements which shall not be less than those requirements in KRS 281.655(4);

(i) Handling of claims for loss, damage, or injury;

(j) Fees to be paid by taxicab permit holders;

(k) Record keeping required by permit holders and drivers, including trip records;

(l) Hearing and appeals processes;

(m) Taxicab permit renewal procedures;

(n) Competition in the market; and

(o) Penalties for the operation of unlicensed taxicabs, and for any other violations.

(5) Before granting a local government's request to regulate taxicab service, the cabinet shall review the ordinance passed by the local government and determine that the required elements of subsection (4) of this section are properly addressed. If the cabinet determines that the ordinance meets the requirements of subsection (4) of this section, the cabinet shall grant regulatory authority over taxicab service in that jurisdiction to the local government.

(6) If, at any time, the cabinet determines that a local government granted regulatory control over taxicab service under this section is not providing adequate control over that service, the cabinet may revoke the regulatory authority it granted to the local government under this section.

SECTION 10. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "taxicab" means a vehicle operating under:

(a) A local taxicab permit issued by a local government in accordance with Section 1 of this Act;

(b) A city taxicab certificate issued by the department under this chapter; or

(c) A county taxicab certificate issued by the department under this chapter.

(2) All taxicabs operating under a permit issued by a local government in accordance with Section 9 of this Act or a certificate issued by the department under this chapter shall undergo an annual safety inspection. The inspection shall be performed by an automotive technician who holds a valid automotive service excellence (a.s.e.) certification recognized by the department.

(3) All taxicab operators shall, when applying for or renewing a taxicab permit or certificate, file proof with the department or local government that each taxicab to be operated under the permit or certificate has successfully passed a safety inspection. The inspection shall be performed by an automotive technician who holds a valid automotive service excellence (a.s.e.) certification recognized by the department.

(4) A local government with regulatory authority under Section 9 of this Act shall enact an ordinance and the department shall promulgate administrative regulations under KRS Chapter 13A to establish safety and out-of-service criteria for a taxicab that it regulates that fails to successfully pass the annual safety inspection required by subsection (2) of this section. The department or local government shall immediately reinstate a taxicab taken out-of-service under this subsection upon receipt of written proof documenting that the deficiencies causing the taxicab to fail the annual safety inspection have been corrected.

(5) The department or local government shall have the authority to revoke the taxicab certificate or permit of, and to permanently deny a taxicab certificate or permit to, any person who willfully and intentionally files a fraudulent safety inspection record for any taxicab.

SECTION 11. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

If the Transportation Cabinet grants a local government regulatory authority over taxicabs under Section 9 of this Act, the local government shall grant an existing certificate holder a local taxicab permit for the number of vehicles the certificate holder has in effect on the date the local government is granted regulatory authority, provided the vehicles meet the safety requirements outlined in Section 10 of this Act. Renewal of the permit shall be subject to the local ordinance passed pursuant *to Section 9 of this Act.*

Section 12. KRS 138.446 is amended to read as follows:

(1) City and suburban bus companies and taxicab companies operating under a certificate of convenience and necessity issued pursuant to KRS Chapter 281, ***taxicab companies regulated by a consolidated local government organized under KRS Chapter 67C or by an urban-county government organized under KRS Chapter 67A,*** holders of a nonprofit bus certificate as provided by KRS 281.619, and senior citizen programs which utilize Title III funds of the Older Americans Act in the provision of transportation services shall be entitled to a refund of seven-ninths (7/9) of the amount of KRS Chapter 138 taxes paid on motor fuels used in their regularly scheduled operations in Kentucky.

(2) No person shall be entitled to a refund pursuant to this section unless he shall have first filed with the cabinet a bond issued by a surety company authorized to do business in Kentucky in an amount of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) to be determined by the cabinet, conditioned upon faithful compliance with this section and upon the payment to the Commonwealth of any refunds to which he was not entitled.

(3) Applications for refund shall be filed with the cabinet on a calendar quarter or calendar year basis on forms and in the manner prescribed by it for refund of tax paid on motor fuel used by buses or taxicabs. Each application for a refund shall show the number of gallons of motor fuel purchased during the quarter for use in buses or taxicabs; the date and quantity of each purchase; the vendor from whom the fuel was purchased; the number of gallons on which refund is claimed; and other information the cabinet may require. Invoices shall be attached to applications from taxicab companies.

(4) The cabinet may require any gasoline dealer or any dealer's authorized agent to identify gasoline sold by him for taxicab use by adding any chemical or substance, which shall be furnished by the cabinet and used in the manner as prescribed by the cabinet. The cabinet also may require that the dealer keep a complete record of all the gasoline sold by him, which records shall give the date of each sale, the number of gallons sold, the name of the person to whom sold, and the sale price.

(5) The cabinet shall audit the application and make any other investigation it deems necessary to determine whether it constitutes a proper claim. When the cabinet is satisfied that a refund is proper, it shall authorize seven-ninths (7/9) of the amount of the tax paid to be refunded as other refunds are made and the amount refunded shall be deducted from current motor fuel tax receipts. The tax shall be refunded with interest at the tax interest rate as defined in KRS 131.010(6).

(6) When the cabinet finds that an application for a refund contains a false or fraudulent statement or that a refund has been fraudulently obtained, the cabinet shall refuse to grant any refunds to the person making the false or fraudulent statement or fraudulently obtaining a refund for a period of two (2) years from the date of the findings.

(7) The cabinet may prescribe, promulgate and enforce administrative regulations relating to the administration and enforcement of this section.

(8) The refund provided for in this section shall be effective on motor fuel purchased on or after July 1, 1978.

The Committee Amendment No. 1 Title to **SB 184** is as follows:

On page 1, amend the title to read as follows:

"AN ACT relating to local governments.".

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 97**: Representative Riggs, Chair: Representatives Damron, Gray and J. Turner.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved to suspend the rules to allow for Rules Committee Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **SB 55, SB 203,** and **SB 11** have been posted for passage in the Orders of the Day for March 26, 2002.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 67, HB 260, HB 332, HB 334, HB 378, HB 393, HB 448, HB 470,** and **HB 590** were delivered to the Senate and signed by the President. Delivered to the Governor on March 25, 2002, at 4:40 p.m.

Orders of the Day

HB 838, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that the rules be suspended to consider Floor Amendment No. 2 to the Committee Substitute to **HB 838**. Agreed.

Representative Treesh moved the adoption of the Committee Substitute to **HB 838**. Agreed.

Representative Simpson moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 838**. Agreed.

Representative Treesh moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 838**. Agreed.

Representative Treesh moved that **HB 838**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 55, Nays 37**. (See March 25, 2002, roll call on **HB 838** - Appendix.)

HB 838, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Treesh moved that the vote by which **HB 838**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 192, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 192** be returned to the Orders of the Day and retain its position therein . Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **SB 121, SB 146, SB 152, SB 176, SB 187, SB 230,** and **SCR 34** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -5:00 p.m.)

Orders of the Day (Continued)

SB 192, with Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved that **SB 192**, be passed.

Representative Treesh stated that Floor Amendment No. 1 to **SB 192** is a piggyback and moved the rules be suspended to consider it. Agreed.

On the roll call the vote was: **Yeas 70, Nays 21**. (See March 25, 2002, roll call on **SB 192** - Appendix.)

The motion to consider Floor Amendment No. 1 to **SB 192** was passed.

Representative Treesh moved the adoption of Floor Amendment No. 1 to **SB 192**. Agreed.

Representative Rasche moved that **SB 192**, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 2**. (See March 25, 2002, roll call on **SB 192** - Appendix.)

SB 192, as amended, was passed.

Representative Rasche moved to adopt Floor Amendment No. 2 Title to **SB 192**. Agreed.

Representative Rasche moved that the vote by which **SB 192**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 166 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meeks moved that **SB 166** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 25, 2002, roll call on **SB 166** - Appendix.)

SB 166 was passed and the title agreed to.

Representative Meeks moved that the vote by which **SB 166** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 66, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of the Committee Substitute to **SB 66**. Agreed.

Representative Callahan moved that **SB 66**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 98, Nays 1**. (See March 25, 2002, roll call on **SB 66** - Appendix.)

SB 66, by way of Committee Substitute, was passed and the title agreed to.

Representative Callahan moved that the vote by which **SB 66**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 239 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **SB 239** be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See March 25, 2002, roll call on **SB 239** - Appendix.)

SB 239 was passed and the title agreed to.

Representative Moberly moved that the vote by which **SB 239** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 243, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved that **SB 243** be returned to the Orders of the Day and retain its place therein. Agreed.

SB 196, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **SB 196**, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 25, 2002, roll call on **SB 196** - Appendix.)

SB 196 was passed and the title agreed to.

Representative Barrows moved that the vote by which **SB 196** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 197, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Adams moved the adoption of Floor Amendment No. 2 to **SB 197**. Agreed.

Representative Stumbo moved the adoption of Floor Amendment No. 6 to **SB 197**. Agreed.

Representative J. Adams moved that **SB 197**, as amended, be passed.

On the roll call the vote was: **Yeas 71, Nays 27**. (See March 25, 2002, roll call on **SB 197** - Appendix.)

SB 197, as amended, was passed and the title agreed to.

Representative J. Adams moved that the vote by which **SB 197**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 45, HB 56, HB 156, HB 381, HB 400, HB 554, HB 559, HB 617,** and **HB 626** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -5:50 p.m.)

A Conference Committee Report was filed on **HB 97**.

Orders of the Day (Continued)

SJR 3 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Draud moved that **SJR 3** be adopted.

On the roll call the vote was: **Yeas 97, Nays 1**. (See March 25, 2002, roll call on **SJR 3** - Appendix.)

SJR 3 was adopted.

Representative Walton moved that the vote by which **SJR 3** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved to waive the posting requirement retroactively on the following: **SB 184**. Agreed.

Representative Stumbo moved that **SB 234**, be placed in the Orders of the Day for March 26, 2002.

Representative Stumbo moved to waive the posting requirement on the following: **SB 280, SB 267, SB 38,** and **SB 193**. Agreed.

Representative Stumbo moved that the rules be suspended for the Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 258, by Representatives P. Clark, L. Clark, Horlander, Miller, Burch, Jenkins, Riggs, D. Butler and Crimm: A RESOLUTION urging Archbishop Thomas Kelly and the Archdiocese of Louisville to provide assistance to Holy Rosary Academy in its bid to continue its service to the Louisville Community.

HR 259, by Representative L. Clark: A RESOLUTION relating to capital projects authorization.

HR 260, by Representative Denham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Anne Orem Parker.

HR 261, by Representative Meeks: A RESOLUTION adjourning the House of representatives in honor of Charles W. Nesby, Jr., upon his recent appointment as Director of the Department of Veterans Affairs Center for Minority Veterans in Washington, D.C.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Education: **SB 165**

Motions, Petitions, and Communications (Continued)

Representative Burch moved the adoption of the following **HR 256**:

HR 256, A RESOLUTION encouraging the purchase and vigorous use of the USS Louisville 688 VLS Class submarine.

WHEREAS, in the past few years the scourge of the casino riverboat has been an increasingly significant presence on the Ohio River; and

WHEREAS, the Ohio River borders the Commonwealth of Kentucky; and

WHEREAS, the siren song of payola issuing from the discordant calliopes of these gambling vessels has led thousands of Kentucky citizens to vast disappointment and woe; and

WHEREAS, no good can come to the citizens of Kentucky hypnotized from the siren song issuing from these casino riverboats, the engines of which are fired by the hard-earned dollars lost from Kentucky citizens;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby encourage the formation of the Kentucky Navy and subsequently immediately encourages the purchase and armament of one particularly effective submarine, namely, the USS Louisville 688 VLS Class Submarine, to patrol the portion of the Ohio River under the jurisdiction of the Commonwealth to engage and destroy any casino riverboats that the submarine may encounter.

Section 2. The House of Representatives does hereby authorize the notification of the casino riverboat consulate of this Resolution and impending whoopin' so that they may remove their casino vessels to friendlier waters.

The motion to adopt **HR 256** was not acted upon.

Representative Gooch moved the adoption of the following **Legislative Citation No. 105**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of John Richard Warren and joins with Representative Jim Gooch, Jr. in expressing deepest sympathy to the Warren Family and all those who share in the tragic and untimely loss of this highly-esteemed gentleman. A 1991 graduate of Webster County High School and the Kentucky Bankers Association, he served the community as president and CEO of Sebree Deposit Bank, officer and director of Sebree Bankcorp, owner of Warren Insurance and manager of Warren Farms. He is survived by his wife, Sarah Hutchison Warren; parents, George and Jane Warren; siblings, Emery and Elizabeth; grandmother, Nixie Powell; and a host of friends and loved ones; and was preceded in death by his grandparents, H.F. and Jane Warren and J.R. Powell. Active in the community, he was a member of the Henderson Hospital Foundation Board, Lambda Chi Alpha Fraternity, the Sebree Chamber of Commerce, where he had served as treasurer, and the First Baptist Church. John Richard Warren is remembered on this day with sorrow and regret for the brevity of his days and with remembrance for the wealth of contributions he made to the community and the joy he brought to those who loved and knew him. Done in Frankfort, Kentucky, this twenty-fifth day of March, in the year two thousand and two.

Legislative Citation No. 105 was adopted without objection.

Representative Treesh moved to withdraw Floor Amendment No. 1 and Floor Amendment No. 2 Title to **SB 211**. Agreed.

Representative Napier moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Napier moved that he be recorded as voting "nay" on **HB 729**. Agreed.

Representative Graham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Graham moved that his vote be changed from "yea" to "nay" on **HB 838**. Agreed.

Representative Childers moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Childers moved that he be recorded as voting "yea" on **SB 192**. Agreed.

Representative Branham moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Branham moved that he be recorded as voting "yea" on **HB 211, HB 243, HB 280, HB 281, HB 556, HB 668, HB 701, HB 707, HB 721, HB 734, HB 757, HB 763 HB 777, HB 798, HB 801, HB 811, HB 857, HB 873, HB 192, HB 199,** and **HB 178**(vote recorded prior to bill being reported out of committee; bill never placed before the house for passage). Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **SB 243**, by Representative Rasche:

On page 1, line 4, by deleting "*Accessible*" and inserting in lieu thereof "*Alternativ*e";

On page 1, line 4, by deleting "*specialized*";

On page 1, line 10, by deleting "*and*";

On page 1, line 11, after "*(c)*" by inserting the following:

"*"Comparable version" denotes that all elements of the print version are present in the electronic version, including graphics with ALT tags though not necessarily in the same order or format;*

(d) "Legacy materials" means images and graphics requiring release and permission from another source other than the publisher; and

(e)";

On page 1, line 22, by deleting "*accessible*" and inserting in lieu thereof "*alternative*";

On page 2, line 2, by deleting "*accessible*" and inserting in lieu thereof "*alternative*";

On page 2, line 7, by deleting "*accessible*" and inserting in lieu thereof "*alternative*";

On page 2, line 10, by deleting "*accessible*" and inserting in lieu thereof "*alternative*";

On page 2, lines 14-18, beginning on line 14 after "*materials*" by deleting all new language through "*formats*" on line 18;

On page 2, line 14, after "*materials*" by inserting the following: "*in formats comparable to the printed version that are compatible with commonly used Braille translation and speech synthesis software and include corrections and revisions as may be necessary to assure clarity in presentation and use. Navigation within and between files should be reasonably efficient so that the disabled learner is able to fully utilize the material in a manner that yields the same result as the print version affords a nondisabled learner. File format shall be limited to those formats that allow for a comparable version that is readable with text and screen readers such as HTML, XML, or other formats that meet the criteria stated in this subsection. For extreme cases where ALT tags are not feasible, a tag may read, "This item is too complicated to render with current technology." Legacy materials shall be exempt from the criteria for this preference*";

On page 2, line 18, after "*files*" by inserting "*shall be provided to the Division of Exceptional Children Services and shall*";

On page 2, line 19 by deleting "*must*";

On page 2, line 24, by deleting "*accessible*" and inserting in lieu thereof "*alternative*"; and

On page 3, line 1, after "*Dyslexic*" by inserting "*or another authorized entity, as defined under 17 U.S.C. sec. 121,*".

Floor Amendment No. 46 to Floor Amendment 21 to the Committee Substitute to **HB 768**, by Representative Lindsay:

On page 12, line 14, to delete "*For the purpose of the*"; and

On page 12, line 15, to delete "*administration and enforcement of those provisions, those*" and to capitalize "*agents*"; and

On page 12, line 17, following "*regulations,*" to insert "*shall not*".

Floor Amendment No. 44 to Floor Amendment 21 to the Committee Substitute to **HB 768**, by Representative Lindsay:

On page 49, line 18, to delete "*Neither the Lottery Corporation, the*"; and

On page 49, lines 19 through 22, to delete the same.

Floor Amendment No. 45 to Floor Amendment 21 to the Committee Substitute to **HB 768**, by Representative Lindsay:

On page 13, line 13 following "*Circuit Court*" to delete "*of a county*" and to insert in lieu thereof "*in the Circuit Court of the county in which the licensee's place of business is located or in the county in which the alleged violation occurred if the alleged violation did not occur in the county of the licensee's place of business*"; and

On page 13, line 13 following "*relief*" to insert "*or to such other relief as the Corporation may be entitled*"; and

On page 13, line 16, following "*the county*" to insert "*in which the licensee's place of business is located or in which the alleged violation occurred if the alleged violation did not occur in the county of the licensee's place of business*"

Floor Amendment No. 2 to the Committee Substitute to **HB 733**, by Representative Lindsay:

On page 1, line 6, following "***become effective***" to delete the remainder of the line and to insert in lieu thereof "***unless the General Assembly, at the next regular session following the finding of the deficiency, approves the administrative regulation either in its original form or as amended by the General Assembly.***"; and

On page 1, to delete lines 7 and 8 in their entirety.

Floor Amendment No. 1 to **SB 242**, by Representative Stein:

On Page 4, after Line 19 by inserting the following:

"Section 4. KRS 138.446 is amended to read as follows:

(1) City and suburban bus companies and taxicab companies operating under a certificate of convenience and necessity issued pursuant to KRS Chapter 281,***taxicab companies regulated by a consolidated local government organized under KRS Chapter 67C or by an urban-county government organized under KRS Chapter 67A,*** holders of a nonprofit bus certificate as provided by KRS 281.619, and senior citizen programs which utilize Title III funds of the Older Americans Act in the provision of transportation services shall be entitled to a refund of seven-ninths (7/9) of the amount of KRS Chapter 138 taxes paid on motor fuels used in their regularly scheduled operations in Kentucky.

(2) No person shall be entitled to a refund pursuant to this section unless he shall have first filed with the cabinet a bond issued by a surety company authorized to do business in Kentucky in an amount of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) to be determined by the cabinet, conditioned upon faithful compliance with this section and upon the payment to the Commonwealth of any refunds to which he was not entitled.

(3) Applications for refund shall be filed with the cabinet on a calendar quarter or calendar year basis on forms and in the manner prescribed by it for refund of tax paid on motor fuel used by buses or taxicabs. Each application for a refund shall show the number of gallons of motor fuel purchased during the quarter for use in buses or taxicabs; the date and quantity of each purchase; the vendor from whom the fuel was purchased; the number of gallons on which refund is claimed; and other information the cabinet may require. Invoices shall be attached to applications from taxicab companies.

(4) The cabinet may require any gasoline dealer or any dealer's authorized agent to identify gasoline sold by him for taxicab use by adding any chemical or substance, which shall be furnished by the cabinet and used in the manner as prescribed by the cabinet. The cabinet also may require that the dealer keep a complete record of all the gasoline sold by him, which records shall give the date of each sale, the number of gallons sold, the name of the person to whom sold, and the sale price.

(5) The cabinet shall audit the application and make any other investigation it deems necessary to determine whether it constitutes a proper claim. When the cabinet is satisfied that a refund is proper, it shall authorize seven-ninths (7/9) of the amount of the tax paid to be refunded as other refunds are made and the amount refunded shall be deducted from current motor fuel tax receipts. The tax shall be refunded with interest at the tax interest rate as defined in KRS 131.010(6).

(6) When the cabinet finds that an application for a refund contains a false or fraudulent statement or that a refund has been fraudulently obtained, the cabinet shall refuse to grant any refunds to the person making the false or fraudulent statement or fraudulently obtaining a refund for a period of two (2) years from the date of the findings.

(7) The cabinet may prescribe, promulgate and enforce administrative regulations relating to the administration and enforcement of this section.

(8) The refund provided for in this section shall be effective on motor fuel purchased on or after July 1, 1978."

Floor Amendment No. 2 to the Committee Substitute to **SB 123**, by Representative Vincent:

On page 16, between lines 26 and 27, by inserting the following:

"***The provisions of this subsection shall be inapplicable to KRS 242.1292.***"; and

On page 17, line 2, after "Chapter 242,", by inserting the following "***except under the provisions of KRS 242.1292,***".

Floor Amendment No. 41 to Floor Amendment No. 21 to the Committee Substitute to **HB 768**, by Representative Marcotte:

On page 1, line 2, delete "117, line 16" and insert "111, line 13"; and

On page 1, line 3, to page 111, line 13, delete all language and insert the following in lieu thereof:

"Section 1. It is proposed that Section 226 of the Constitution of Kentucky be amended to read as follows:

(1) The General Assembly may establish a Kentucky state lottery and may establish a state lottery to be conducted in cooperation with other states. Any lottery so established shall be operated by or on behalf of the Commonwealth of Kentucky.

(2) The General Assembly may by general law permit charitable lotteries and charitable gift enterprises and, if it does so, it shall:

(a) Define what constitutes a charity or charitable organization;

(b) Define the types of charitable lotteries and charitable gift enterprises which may be engaged in;

(c) Set standards for the conduct of charitable lotteries and charitable gift enterprises by charitable organizations;

(d) Provide for means of accounting for the amount of money raised by lotteries and gift enterprises and for assuring its expenditure only for charitable purposes;

(e) Provide suitable penalties for violation of statutes relating to charitable lotteries and charitable gift enterprises; and

(f) Pass whatever other general laws the General Assembly deems necessary to assure the proper functioning, honesty, and integrity of charitable lotteries and charitable gift enterprises, and the charitable purposes for which the funds are expended.

(3) ***The General Assembly may by general law permit the operation of video lottery terminals at racetracks, and, if it does so, shall:***

(a) Provide a means whereby the sense of the people of Kentucky shall be taken, prior to the institution of video lottery terminals at racetracks, whether video lottery terminals at racetracks shall be allowed by submission to the voters of this state for their ratification or rejection by a majority of the votes cast at a general election in such manner as shall be provided by law; and

(b) Pass general laws to ensure the proper functioning, honesty, and integrity of video lottery terminals at racetracks and the organizations conducting video lottery terminals at racetracks.

(4) Except as provided in this section, lotteries and gift enterprises are forbidden, and no privileges shall be granted for such purposes, and none shall be exercised, and no schemes for similar purposes shall be allowed. The General Assembly shall enforce this section by proper penalties. All lottery privileges or charters heretofore granted are revoked.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.".

Floor Amendment No. 12 to the Committee Substitute to **SB 2**, by Representative Burch:

On page 1, by deleting all text on line 1, and inserting in lieu thereof the following:

"Section 1. KRS 12.330 is repealed, reenacted as a new section of KRS Chapter 194A, and amended to read as follows:";

On page 1, line 2, after "in" by inserting "***Sections 1 to 3 of this Act***" and bracketing and striking through "KRS 12.1330 to 12.334";

On page 1, line 5 after "the" by inserting "***Cabinet for Health Services***" and bracketing and striking through "Office of the Governor";

On page 1, line 6, by deleting "***prevention and***"; and

On page 1, line 12, after "of" by inserting "***Sections 1 to 3 of this Act***" and bracketing and striking through "KRS 12.330 to 12.334";

On page 2, line 15, after "[~~11.~~]" by deleting all remaining new text through "***15.***" on line 20;

On page 2, line 22, by deleting "***16***" and inserting "***15***" in lieu thereof;

On page 2, line 24, by deleting "***17***" and inserting "***16***" in lieu thereof;

On page 2, line 26, by deleting "***18***" and inserting "***17***" in lieu thereof;

On page 3, line 1, by deleting "***19***" and inserting "***18***" in lieu thereof;

On page 3, line 5, by deleting all text on line 5 through line 8 and inserting the following in lieu thereof:

"***19. One (1) representative from Kentucky Youth Advocates;***";

On page 3, line 9, by deleting "***21***" and inserting "***20***" in lieu thereof;

On page 3, line 11, by deleting "***22***" and inserting "***21***" in lieu thereof;

On page 3 line 13, by deleting "***23***" and inserting "***22***" in lieu thereof and after "***represent***" by deleting "***one (1)***" and inserting "***a separate***" in lieu thereof;

On page 3, line 18, by deleting "***24***" and inserting "***23***" in lieu thereof;

On page 4, line 12, after "of" by inserting "***a majority of***" and deleting "***sixteen (16)***";

On page 4, line 26, by placing an opening bracket before "prevention" and placing a closing bracket after the second "and" and striking all intervening text;

On page 4, line 27, before "prevention" by inserting "***education***" and bracketing and striking through "prevention";

On page 5, line 10, through page 10, line 6, by deleting Sections 2 and 3 in their entirety and inserting the following in lieu thereof:

"Section 2. KRS 12.332 is repealed, reenacted as a new section of KRS Chapter 194A, and amended to read as follows:

KY-ASAP shall:

(1) Develop a strategic plan to reduce the prevalence of smoking and drug and alcohol abuse among both the youth and adult populations in Kentucky;

(2) Monitor the data and issues related to youth alcohol and tobacco access, smoking cessation and prevention, and substance abuse ***education*** policies, their impact on state and local programs, and their flexibility to adapt to the needs of local communities and ***education programs***[~~service providers~~];

(3) Make policy recommendations to be followed to the extent permitted by budgetary restrictions and federal law, by executive branch agencies that work with smoking cessation and prevention and alcohol and substance abuse ***education*** issues to ensure the greatest efficiency in agencies and to ensure that a consistency in philosophy will be applied to all efforts undertaken by the administration in initiatives related to smoking cessation and prevention and alcohol and substance abuse ***education***;

(4) Identify existing resources in each community that advocate or implement programs for smoking cessation or prevention, or drug and alcohol abuse [~~prevention,~~] education[~~, or treatment~~];

(5) Encourage coordination among public and private, state and local, agencies, organizations, and service providers, and monitor related programs;

(6) Act as the referral source of information, utilizing existing information clearinghouse resources within the Department for Public Health and CHAMPIONS for a Drug Free Kentucky Office, relating to youth tobacco access, smoking cessation and prevention, and substance abuse ***education***[~~prevention, cessation, and treatment~~] programs. KY-ASAP shall identify gaps in information referral sources;

(7) Search for grant opportunities for existing programs within the Commonwealth;

(8) Make recommendations to state and local agencies and local tobacco addiction and substance abuse advisory and coordination boards;

(9) ***Obtain information about***[~~Observe~~] programs from other states;

(10) Coordinate services among local and state agencies, including, but not limited to, the Justice Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, ***the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses,*** the Department of Agriculture, ***the Department for Local Government,*** the Public Protection and Regulation Cabinet, the Administrative Office of the Courts, and the Education, Arts, and Humanities Cabinet;

(11) Assure the availability of training, technical assistance, and consultation to local [~~service~~] providers for ***education*** programs funded by the Commonwealth that provide services related to tobacco addiction, smoking cessation or prevention, or alcohol or substance abuse ***education***;

(12) Review existing research on programs related to smoking cessation and prevention and substance abuse ***education***[~~prevention and treatment~~];

(13) Comply with any federal mandate regarding smoking cessation and prevention and substance abuse ***education***, to the extent authorized by state statute;

(14) Establish a mechanism to coordinate the distribution of funds to support any local [~~prevention, treatment, and~~] education program based on the strategic plan developed in subsection (1) of this section that could encourage smoking cessation and prevention through efficient, effective, and research-based strategies;

(15) Oversee a school-based initiative that links schools with community-based agencies and health departments to implement School Programs to Prevent Tobacco Use, based upon the model recommended by the Centers for Disease Control and Prevention. To the extent permitted by resources, the initiative shall involve input by and services from each of the family resource and youth services centers, regional prevention centers, and existing school-based antidrug programs;

(16) Work with community-based organizations to encourage them to work together to establish comprehensive tobacco addiction and substance abuse [~~prevention~~] education programs and carry out the strategic plan developed in this section. These organizations shall be encouraged to partner with district and local health departments and community mental health centers to plan and implement interventions to reach youths before tobacco addiction and substance abuse become a problem in their lives;

(17) Coordinate media campaigns designed to demonstrate the negative impact of smoking and the increased risk of tobacco addiction, substance abuse, and the development of other disease in children, young people, and adults. To accomplish this objective, KY-ASAP shall work with local media to reach all segments of the community quickly and efficiently;

(18) Certify to the Governor and the General Assembly during the budget request process established under KRS Chapter 48 the extent to which each entity receiving state funds has cooperated with KY-ASAP, coordinated with community resources, and vigorously pursued the philosophy of KY-ASAP;

(19) ***Prior to October 1, 2002, the agency shall adopt a performance-based reporting system that includes benchmarks and methods of measuring performance and report on the system adopted to the Interim Joint Committee on Health and Welfare;***

(20) Promulgate any administrative regulations necessary to implement ***Sections 1 to 3 of this Act***[~~KRS 12.330 to 12.334~~]; and

(21)[~~(20)~~] Report ***annually*** to the Legislative Research Commission and Governor by October 1 ***of each year***[~~, 2000,~~] regarding the proper organization of state government agencies that will provide the greatest coordination of services, and report semiannually to the Legislative Research Commission***, the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses,*** and ***the*** Governor on the proper organization structure, devising and implementing an accountability system to be designed to ensure efficiency and efficacy of services and grants, and on other matters as requested by the Legislative Research Commission and Governor.

Section 3. KRS 12.334 is repealed, reenacted as a new section of KRS Chapter 194A, and amended to read as follows:

(1) KY-ASAP shall establish in each county a local tobacco addiction and alcohol and substance abuse ***educational*** advisory and coordination board to assist in planning, overseeing, and coordinating the implementation of local programs related to smoking cessation and prevention and alcohol and substance abuse ***education***[~~prevention, cessation, and treatment~~], although a single board may be established for multiple counties to ensure a comprehensive range of ***coordinated educational programs***[~~services~~]. The board shall assist with the coordination of ***educational*** programs provided by public and private entities. If the existing[~~ programs of~~] private ***educational programs***[~~service providers~~] are of high quality, KY-ASAP shall concentrate on providing missing elements and support for those providers. The Cabinet for Health Services shall support the communities' efforts.

(2) KY-ASAP shall consult with community leaders to solicit the names of residents from the community to serve on each ***educational*** advisory and coordination board. KY-ASAP shall request from each board the submission of reasonable reports on the effectiveness, efficiency, and efforts of each local program, including recommendations for increased or decreased funding, and KY-ASAP shall supply information as necessary to the ***educational*** advisory and coordination board to enable it to carry out its functions.

(3) KY-ASAP shall provide incentives to encourage multicounty ***educational*** advisory and coordination board requests and shall establish a single board to represent all counties making the request. ***In establishing a board, KY-ASAP shall use, to the fullest extent possible,***[~~Priority in establishing a board shall be given to~~] existing regional prevention centers or coalitions, community organizations, or local Kentucky Incentives for Prevention (KIP) project coalitions. Membership shall consist of residents from each of the counties.

(4) Each ***educational*** advisory and coordination board shall develop a long-term community strategy that is designed to reduce the incidence of youth and young adult smoking and tobacco addiction, promote resistance to smoking, reduce the incidence of substance abuse, and promote effective[~~ treatment of~~] substance abuse ***educational programs***. All county resources, both private and public, for-profit and nonprofit, shall be considered in developing this strategy.

    (a) Employers, local leaders, schools, family resource and youth services centers, health care providers and institutions, ***regional mental health and mental retardation boards and regional planning councils,*** economic developers, and other relevant local and regional entities shall be consulted in the development of the strategy.

    (b) An assessment of needs and available services shall be included in the strategy.

(5) To carry out the provisions of this section the local boards shall consult in their respective areas with the regional planning councils established under KRS 210.506.

Section 4. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on Postsecondary Education;

(2) Department of Military Affairs;

(3) Department for Local Government;

(4) Kentucky Commission on Human Rights;

(5) Kentucky Commission on Women;

(6) Kentucky Commission on Military Affairs;

(7) Kentucky Coal Council;

(8) Governor's Office of Child Abuse and Domestic Violence Services;

(9) Governor's Office for Technology;

(10) Office of Coal Marketing and Export;

(11) Agricultural Development Board;

(12) Commission on Small Business Advocacy;

(13) Office of Early Childhood Development; ***and***

(14)[~~ Kentucky Agency for Substance Abuse Policy; and~~

~~(15)~~] Education Professional Standards Board.

Section 5. KRS 194A.030 is amended to read as follows:

The cabinet consists of the following major organizational units, which are hereby created:

(1) Office of the Secretary;

(2) Office of Program Support. The Office of Program Support shall provide professional support in personnel activities; planning; budgeting; contract management; policy analysis, including but not limited to the appraisal of needs; evaluation of programs; review of citizen complaints about services of the cabinet when complaints cannot be resolved through normal administrative remedies; and fiscal, facility, and information management functions of the cabinet. The Office of Program Support shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050;

(3) Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for Medicaid services, who shall be appointed by the secretary with the approval of the Governor under with KRS 12.050. The commissioner for Medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for Medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

(4) Department for Public Health. The Department for Public Health shall develop and operate all programs of the cabinet that provide health services and all programs for assessing the health status of the population for the promotion of health and the prevention of disease, injury, disability, and premature death. The Department for Public Health shall be headed by a commissioner for public health who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for public health shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for public health shall exercise authority over the Department for Public Health under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

(5) Department for Mental Health and Mental Retardation Services. The Department for Mental Health and Mental Retardation Services shall develop and administer programs for the prevention of mental illness, mental retardation, and chemical dependency and shall develop and administer an array of services and support for the treatment, habilitation, and rehabilitation of persons who have a mental illness or emotional disability, who have mental retardation, or who are chemically dependent. The Department for Mental Health and Mental Retardation Services shall be headed by a commissioner for mental health and mental retardation who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for mental health and mental retardation shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for mental health and mental retardation shall exercise authority over the department under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

(6) Office of the Inspector General. The Office of the Inspector General shall be responsible for:

(a) The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;

(b) Licensing and regulatory functions as the secretary may delegate;

(c) Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.165 to 311.235 and KRS 311.241, 311.243, 311.245, and 311.247; and

(d) The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority.

The Office of the Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary;

(7) Commission for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed by the commission. The commission shall advocate the rights of children with disabilities and, to the extent that funds are available, shall provide the services and facilities for children with disabilities as are deemed appropriate by the commission. The commission shall be composed of seven (7) members appointed by the Governor to serve a term of office of four (4) years. The commission may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the Commission for Children with Special Health Care Needs shall be performed through the office of the executive director of the commission. The executive director shall be appointed by the Governor under KRS 12.040, and the commission may at any time recommend the removal of the executive director upon filing with the Governor a full

written statement of its reasons for removal. The executive director shall report directly to the Commission for Children with Special Health Care Needs and serve as the commission's secretary;

(8) Office of Certificate of Need. The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeal functions, as set out in KRS Chapter 216B, shall be performed by this office;

(9) Office of the General Counsel. The Office of the General Counsel shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of the General Counsel shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney and shall administer all personal service contracts of the cabinet for legal services. The Office of the General Counsel shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105***;***~~[.]~~

(10) Office of Aging Services. The Office of Aging Services shall serve as the state unit on aging as required by the Older Americans Act of 1965, as amended, 42 U.S.C. secs. 3001 et seq., including having responsibility for the development of the state plan on aging, advocacy, planning, coordination, information sharing, brokering, reporting and evaluation of contract and service-provider agreement implementation. The Office of Aging Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The Office of Aging Services shall also administer grants, programs, and initiatives designed to assist older Kentuckians, administer the long-term care ombudsman program for Kentucky, and provide and coordinate services to persons with Alzheimer's disease and related disorders and their caregivers***; and***

(11) Kentucky Agency for Substance Abuse Policy. The duties, responsibilities, and authority set out in Sections 1 to 3 of this Act shall be performed by this office."; and by renumbering the subsequent sections accordingly;

On page 13, line 5, after "statewide" by inserting "***prevention and***";

On page 13, line 6, after "system" by inserting "***for promoting mental health and treating mental illness, alcohol and other drug disorders, and dual diagnoses,***";

On page 13, line 18, after "abuse" by inserting "***prevention and***";

On page 14, line 5, before "services" by inserting "***prevention and treatment,***";

On page 14, line 7, after "***for***" by inserting "***promoting mental health,***" and after "***awareness***" by inserting "***,***";

On page 15, line 6, after "***Services***" by deleting "***and***", inserting "***,***" in lieu thereof, and after "***commission***" by inserting "***, and all members of the commission***";

On page 15, line 14, after "***mental***" by deleting "***health***" and inserting "***illness***" in lieu thereof;

On page 16, line 12, before "***services***" by inserting "***treatment***";

On page 17, line 1, after "community-based" by inserting "***prevention and treatment***";

On page 17, by deleting all new text on line 20 through line 24;

On page 18, line 11, after "***under***" by deleting "***KRS 12.334***" and inserting in lieu thereof "***Section 3 of this Act; and***

(h) To carry out the provisions of this section relating to substance abuse prevention and education strategies, the regional planning councils shall consult with the local boards in their areas established by Section 3 of this Act";

On page 20, line 5, after "in" by inserting "***Section 2 of this Act***", and by bracketing and striking through "KRS 12.332" and after "***under***" by deleting "***Section 5 of this Act***" and inserting in lieu thereof "***KRS 210.504***";

On page 22 line 1, after "under" by bracketing and striking through "KRS 12.330" and inserting in lieu thereof "***Section 1 of this Act***"; and

On page 22, line 2, after "***KY-ASAP***" by inserting "***and all other members of KY-ASAP***".

Floor Amendment No. 13 to the Committee Substitute to **SB 2**, by Representative L. Clark:

On page 1, line 6, by deleting "***prevention and***"; and

On page 2, line 15, after "~~[11.]~~" by deleting all remaining new text through "***15.***" on line 20; and

On page 2, line 22, by deleting "***16***" and inserting "***15***" in lieu thereof; and

On page 2, line 24, by deleting "***17***" and inserting "***16***" in lieu thereof; and

On page 2, line 26, by deleting "***18***" and inserting "***17***" in lieu thereof; and

On page 3, line 1, by deleting "***19***" and inserting "***18***" in lieu thereof; and

On page 3, line 5, by deleting all text on line 5 through line 8 and inserting the following in lieu thereof:

"***19. One (1) representative from Kentucky Youth Advocates;***"; and

On page 3, line 9, by deleting "***21***" and inserting "***20***" in lieu thereof; and

On page 3, line 11, by deleting "***22***" and inserting "***21***" in lieu thereof; and

On page 3 line 13, by deleting "***23***" and inserting "***22***" in lieu thereof and after "***represent***" by deleting "***one (1)***" and inserting "***a separate***" in lieu thereof; and

On page 3, line 18, by deleting "***24***" and inserting "***23***" in lieu thereof; and

On page 4, line 12, after "of" by inserting "***a majority of***" and deleting "***sixteen (16)***";and

On page 4, line 26, by placing an opening bracket before "prevention" and placing a closing bracket after the second "and" and striking all intervening text; and

On page 4, line 27, before "prevention", by inserting "***education***" and bracketing and striking through "prevention"; and

On page 5, line 10, through page 10, line 6, by deleting Sections 2 and 3 in their entirety and inserting the following in lieu thereof:

"Section 2. KRS 12.332 is amended to read as follows:

KY-ASAP shall:

(1) Develop a strategic plan to reduce the prevalence of smoking and drug and alcohol abuse among both the youth and adult populations in Kentucky;

(2) Monitor the data and issues related to youth alcohol and tobacco access, smoking cessation and prevention, and substance abuse ***education*** policies, their impact on state and local programs, and their flexibility to adapt to the needs of local communities and ***education programs***[~~service providers~~];

(3) Make policy recommendations to be followed to the extent permitted by budgetary restrictions and federal law, by executive branch agencies that work with smoking cessation and prevention and alcohol and substance abuse ***education*** issues to ensure the greatest efficiency in agencies and to ensure that a consistency in philosophy will be applied to all efforts undertaken by the administration in initiatives related to smoking cessation and prevention and alcohol and substance abuse ***education***;

(4) Identify existing resources in each community that advocate or implement programs for smoking cessation or prevention, or drug and alcohol abuse [~~prevention,~~] education[~~, or treatment~~];

(5) Encourage coordination among public and private, state and local, agencies, organizations, and service providers, and monitor related programs;

(6) Act as the referral source of information, utilizing existing information clearinghouse resources within the Department for Public Health and CHAMPIONS for a Drug Free Kentucky Office, relating to youth tobacco access, smoking cessation and prevention, and substance abuse ***education***[~~prevention, cessation, and treatment~~] programs. KY-ASAP shall identify gaps in information referral sources;

(7) Search for grant opportunities for existing programs within the Commonwealth;

(8) Make recommendations to state and local agencies and local tobacco addiction and substance abuse advisory and coordination boards;

(9) ***Obtain information about***[~~Observe~~] programs from other states;

(10) Coordinate services among local and state agencies, including, but not limited to, the Justice Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, ***the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses,*** the Department of Agriculture, ***the Department for Local Government,*** the Public Protection and Regulation Cabinet, the Administrative Office of the Courts, and the Education, Arts, and Humanities Cabinet;

(11) Assure the availability of training, technical assistance, and consultation to local [~~service~~] providers for ***education*** programs funded by the Commonwealth that provide services related to tobacco addiction, smoking cessation or prevention, or alcohol or substance abuse ***education***;

(12) Review existing research on programs related to smoking cessation and prevention and substance abuse ***education***[~~prevention and treatment~~];

(13) Comply with any federal mandate regarding smoking cessation and prevention and substance abuse ***education***, to the extent authorized by state statute;

(14) Establish a mechanism to coordinate the distribution of funds to support any local [~~prevention, treatment, and~~] education program based on the strategic plan developed in subsection (1) of this section that could encourage smoking cessation and prevention through efficient, effective, and research-based strategies;

(15) Oversee a school-based initiative that links schools with community-based agencies and health departments to implement School Programs to Prevent Tobacco Use, based upon the model recommended by the Centers for Disease Control and Prevention. To the extent permitted by resources, the initiative shall involve input by and services from each of the family resource and youth services centers, regional prevention centers, and existing school-based antidrug programs;

(16) Work with community-based organizations to encourage them to work together to establish comprehensive tobacco addiction and substance abuse [~~prevention~~] education programs and carry out the strategic plan developed in this section.

These organizations shall be encouraged to partner with district and local health departments and community mental health centers to plan and implement interventions to reach youths before tobacco addiction and substance abuse become a problem in their lives;

(17) Coordinate media campaigns designed to demonstrate the negative impact of smoking and the increased risk of tobacco addiction, substance abuse, and the development of other disease in children, young people, and adults. To accomplish this objective, KY-ASAP shall work with local media to reach all segments of the community quickly and efficiently;

(18) Certify to the Governor and the General Assembly during the budget request process established under KRS Chapter 48 the extent to which each entity receiving state funds has cooperated with KY-ASAP, coordinated with community resources, and vigorously pursued the philosophy of KY-ASAP;

(19) ***Prior to October 1, 2002, the agency shall adopt a performance-based reporting system that includes benchmarks and methods of measuring performance and report on the system adopted to the Interim Joint Committee on Health and Welfare;***

(20) Promulgate any administrative regulations necessary to implement KRS 12.330 to 12.334; and

(21)[~~(20)~~] Report ***annually*** to the Legislative Research Commission and Governor by October 1 ***of each year***[~~, 2000,~~] regarding the proper organization of state government agencies that will provide the greatest coordination of services, and report semiannually to the Legislative Research Commission***, the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses,*** and ***the*** Governor on the proper organization structure, devising and implementing an accountability system to be designed to ensure efficiency and efficacy of services and grants, and on other matters as requested by the Legislative Research Commission and Governor.

Section 3. KRS 12.334 is amended to read as follows:

(1) KY-ASAP shall establish in each county a local tobacco addiction and alcohol and substance abuse ***educational*** advisory and coordination board to assist in planning, overseeing, and coordinating the implementation of local programs related to smoking cessation and prevention and alcohol and substance abuse ***education***[~~prevention, cessation, and treatment,~~] although a single board may be established for multiple counties to ensure a comprehensive range of ***coordinated educational programs***[~~services~~]. The board shall assist with the coordination of ***educational*** programs provided by public and private entities. If the existing [~~programs of~~] private ***educational programs***[~~service providers~~] are of high quality, KY-ASAP shall concentrate on providing missing elements and support for those providers. The Cabinet for Health Services shall support the communities' efforts.

(2) KY-ASAP shall consult with community leaders to solicit the names of residents from the community to serve on each ***educational*** advisory and coordination board. KY-ASAP shall request from each board the submission of reasonable reports on the effectiveness, efficiency, and efforts of each local program, including recommendations for increased or decreased funding, and KY-ASAP shall supply information as necessary to the ***educational*** advisory and coordination board to enable it to carry out its functions.

(3) KY-ASAP shall provide incentives to encourage multicounty ***educational*** advisory and coordination board requests and shall establish a single board to represent all counties making the request. ***In establishing a board, KY-ASAP shall use, to the fullest extent possible,***[~~Priority in establishing a board shall be given to~~] existing regional prevention centers or coalitions, community organizations, or local Kentucky Incentives for Prevention (KIP) project coalitions. Membership shall consist of residents from each of the counties.

(4) Each ***educational*** advisory and coordination board shall develop a long-term community strategy that is designed to reduce the incidence of youth and young adult smoking and tobacco addiction, promote resistance to smoking, reduce the incidence of substance abuse, and promote effective [~~treatment of~~] substance abuse ***educational programs***. All county resources, both private and public, for-profit and nonprofit, shall be considered in developing this strategy.

   (a) Employers, local leaders, schools, family resource and youth services centers, health care providers and institutions, ***regional mental health and mental retardation boards and regional planning councils,*** economic developers, and other relevant local and regional entities shall be consulted in the development of the strategy.

   (b) An assessment of needs and available services shall be included in the strategy.

(5) To carry out the provisions of this section, the local boards shall consult in their respective areas with the regional planning councils established under KRS 210.506."; and

On page 13, line 5, after "statewide", by inserting "***prevention and***"; and

On page 13, line 6, after "system", by inserting "***for promoting mental health and treating mental illness, alcohol and other drug disorders, and dual diagnoses,***"; and

On page 13, line 18, after "abuse", by inserting "***prevention and***"; and

On page 14, line 5, before "services" by inserting "***prevention and treatment***"; and

On page 14, line 7, after "***for***" by inserting "***promoting mental health,***"; and

On page 14, line 7, after "***awareness***" by inserting "***,***"; and

On page 15, line 6, after "*Services*" by deleting "*and*", inserting "*,*" in lieu thereof, and after "*commission*" by inserting "*, and all members of the commission*"; and

On page 15, line 14, after "*mental*" by deleting "*health*" and inserting "*illness*" in lieu thereof; and

On page 16, line 12, before "*services*" by inserting "*treatment*"; and

On page 17, line 1, after "community-based" by inserting "*prevention and treatment*"; and

On page 17, by deleting all new text on line 20 through line 24; and

On page 18, line 11, after "*KRS. 12.334*" by inserting the following:

"*; and*

(h) To carry out the provisions of this section related to substance abuse prevention and education strategies, the regional planning councils shall consult the local boards in their areas established by KRS 12.334"; and

On page 22, line 2, after "*KY-ASAP*", by inserting "*and all other members of KY-ASAP*".

Floor Amendment No. 3 to the Committee Substitute to **SB 123**, by Representative Jenkins:

On page 3, line 23, after "KRS 243.030(7)", by inserting "*, (8),*"; and

On page 3, line 27, after "KRS 243.030" by inserting "*(8) or*".

Floor Amendment No. 2 to the Committee Substitute to **HB 838**, by Representative Simpson:

On page 3, line 17, by deleting "*(1) Except as provided for in subsection (2) of this section, net*" and inserting "*Net*" in lieu thereof; and

On page 3, line 21, by deleting "*(a)*" and inserting "*(1)*" in lieu thereof; and

On page 3, line 27, by deleting "*(b) 1.*" and inserting "*(2) (a)*" in lieu thereof; and

On page 4, line 4, by deleting "*2.*" and inserting "*(b)*" in lieu thereof; and

On page 4, line 5, by deleting "*a.*" and inserting "*1.*" in lieu thereof; and

On page 4, line 9, by deleting "*b.*" and inserting "*2.*" in lieu thereof; and

On page 4, line 12, by deleting "*3.*" and inserting "*(c)*" in lieu thereof; and

On page 4, beginning on line 17 and ending on line 26 by deleting the language in its entirety; and

On page 6, line 5, after the period "*.*" by inserting the following: "*The provisions of this section shall not apply unless specifically adopted by an ordinance or resolution by a tax district.*"; and

On page 11, line 8, after the period "*.*" "*The provisions of this subsection shall not apply unless specifically adopted by an ordinance or resolution by a tax district.*"; and

On page 11, line 22, after the period "*.*" by inserting the following: "*In lieu of quarterly reporting under this subsection, a tax district may require monthly reporting.*".

Floor Amendment No. 42 to Floor Amendment No. 21 to the Committee Substitute to **HB 768**, by Representative Lindsay:

On page 29, line 1, after "*are located*" to insert "*, which security officers shall not possess any power of a peace officer unless they are certified as a peace officer by the Kentucky Law Enforcement Council and are employed full-time as a peace officer by a city, county, urban-county, charter county, or consolidated local government*"

Floor Amendment No. 43 to Floor Amendment No. 21 to the Committee Substitute to **HB 768**, by Representative Lindsay:

On page 20, line 20, following "*chapter shall*" to insert "*be subject to all local zoning ordinances and shall comply with all provisions of those ordinances.*"; and

On page 20, lines 21 through 26, to delete the same; and

On page 21, lines 1 and 2, to delete the same.

Floor Amendment No. 5 to the Committee Substitute to **HB 600**, by Representative Barrows:

On page 3, line 11, before the word "*members*" by deleting the words "*ex officio*"; and

On page 3, line 12, after the word "*committee*" by inserting "*listed in subsection (2) of Section 6 of this Act*"; and

On page 5, line 24 after the word "*committee*" by deleting the word "*may*" and by inserting in lieu thereof the word "*shall*".

Floor Amendment No. 47 to Floor Amendment No. 21 to the Committee Substitute to **HB 768**, by Representative Riner:

On page 31, line 6, after "*(a)*" by deleting all of the remaining language on line 6, and all the language on lines 7 through 20 and by inserting the following language in lieu thereof:

"***Fifty-one percent (51%) of the annual gaming income shall be allocated and distributed by the Lottery Corporation in accordance with this subsection.***";

On page 35, line 6, after "*(a)*", by deleting all the remaining language on 6, and all the language on lines 7 through 21, and by inserting the following language in lieu thereof:

"***Twelve percent (12%) of the annual gaming income shall be allocated and distributed by the electronic gaming device operator in accordance with this subsection.***"

On page 38, line 20, after "*(a)*" by deleting all the remaining language on line 20, and by deleting all the language on lines 21 through 26, and inserting the following language in lieu thereof:

"***Thirty-seven percent (37%) of the annual gaming income shall be allocated and distributed by the electronic gaming device operator in accordance with this subsection.***"

On page 39, by deleting all the language on lines 1 through 9.

Floor Amendment No. 6 to the Committee Substitute to **SB 227**, by Representative Riner:

On page 2, after line 14, insert the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

A prosecuting attorney shall not agree to amendment of a charge of rape in the third degree, as established in KRS 510.060, or sexual abuse in the first degree, as established in KRS 510.110, to any misdemeanor offense and shall oppose the amendment of the charge at trial and at any pretrial proceeding, unless the prosecuting attorney certifies to the court on the record that there is sufficient evidence to prove, by a preponderance of the evidence, that the defendant committed the offense of rape in the third degree or sex abuse in the first degree."

Floor Amendment No. 48 to the Committee Substitute to **HB 768**, by Representative Riner:

On page 56, line 24, after "*(a)*", by deleting the remaining language in line 24 and all the language on lines 25 through 27, and inserting the following language in lieu thereof:

"***Fifty-one percent (51%) of the annual gaming income shall be allocated and distributed by the Gaming Commission in accordance with this subsection.***"

On page 57, by deleting all the language on lines 1 through 14;

On page 61, line 3, after "*(a)*" by deleting the remaining language on line 3, and all the language on lines 4 through 21, and inserting the following language in lieu thereof:

"***Twelve percent (12%) of the annual gaming income shall be allocated and distributed by the electronic gaming device operator in accordance with this subsection.***"

On page 65, line 12, after "*(a)*" by deleting all the remaining language on line 12, and all the language on lines 13 through 27, and by inserting the following language in lieu thereof:

"***Thirty-seven percent (37%) of the annual gaming income shall be allocated and distributed by the electronic gaming device operator in accordance with this subsection.***"

On page 66, by deleting all the language on lines 1 through 3.

Floor Amendment No. 1 to the Committee Substitute to **SB 289**, by Representative Marzian:

On page 2, line 21 by deleting the word "*and*"; and

On page 2, line 22, after "*(g)*" by inserting the following:

" *President, or a designee, of the Kentucky Coalition of Nurse Practitioners and Nurse Midwives;*

(h) President, or a designee, of the Kentucky Council of Associate Degree Nursing Programs;

(i) Chair, or a designee, of the Kentucky Association of Baccalaureate and Higher Degree Nursing Programs; and

(j)".

Floor Amendment No. 1 to the Committee Substitute to **SB 234**, by Representative Stumbo:

On page 1, by deleting lines 13 through 25 in their entirety; and

On page 2, by deleting lines 1 through 22 in their entirety.

Floor Amendment No. 7 to **SB 227**, by Representative Riner:

On page 2, after line 6, by inserting the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

Where the commission of an offense set out in this chapter is directed against the person of another, that other person may use nondeadly force to repel the commission of the offense, with deadly force being authorized only where it may be allowed by other applicable law, including the provisions of KRS Chapter 503."

Floor Amendment No. 10 to **SB 227**, by Representative Riner:

On page 1, line 10, by deleting same and inserting in lieu thereof the following:

"(2) ***The commission of the offense set out in this section may be repelled by nondeadly force, with deadly force being authorized only where it may be allowed by other applicable law, including the provisions of KRS Chapter 503.***

(3) Rape in the third degree is a Class D felony."; and

On page 1, line 20, by deleting same and inserting in lieu thereof the following:

"(2) ***The commission of the offense set out in this section may be repelled by nondeadly force, with deadly force being authorized only where it may be allowed by other applicable law, including the provisions of KRS Chapter 503.***

(3) Sodomy in the third degree is a Class D felony."; and

On page 2, after line 6, by inserting the following:

"Section 4. KRS 510.120 is amended to read as follows:

(1) A person is guilty of sexual abuse in the second degree when:

(a) He subjects another person to sexual contact who is incapable of consent because he is mentally retarded or mentally incapacitated;

(b) He subjects another person who is less than fourteen (14) years old to sexual contact; or

(c) Being an employee, contractor, vendor, or volunteer of the Department of Corrections, or a detention facility as defined in KRS 520.010, or of an entity under contract with either the department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he subjects an offender who is incarcerated, supervised, evaluated, or treated by the Department of Corrections, the detention facility, or the contracting entity, to sexual contact. In any prosecution under this paragraph, the defendant may prove in exculpation that, at the time he engaged in the conduct constituting the offense, he and the offender were married to each other.

(2) ***The commission of the offense set out in this section may be repelled by nondeadly force, with deadly force being authorized only where it may be allowed by other applicable law, including the provisions of KRS Chapter 503.***

(3) Sexual abuse in the second degree is a Class A misdemeanor.

Section 5. KRS 510.130 is amended to read as follows:

(1) A person is guilty of sexual abuse in the third degree when:

(a) He subjects another person to sexual contact without the latter's consent.

(b) In any prosecution under this section, it is a defense that:

1. The other person's lack of consent was due solely to incapacity to consent by reason of being less than sixteen (16) years old; and

2. The other person was at least fourteen (14) years old; and

3. The actor was less than five (5) years older than the other person.

(2) ***The commission of the offense set out in this section may be repelled by nondeadly force, with deadly force being authorized only where it may be allowed by other applicable law, including the provisions of KRS Chapter 503.***

(3) Sexual abuse in the third degree is a Class B misdemeanor.

Section 6. KRS 510.140 is amended to read as follows:

(1) A person is guilty of sexual misconduct when he engages in sexual intercourse or deviate sexual intercourse with another person without the latter's consent.

(2) ***The commission of the offense set out in this section may be repelled by nondeadly force, with deadly force being***

authorized only where it may be allowed by other applicable law, including the provisions of KRS Chapter 503.

(3) Sexual misconduct is a Class A misdemeanor.".

Floor Amendment No. 12 to **SB 227**, by Representative Riner:

On page 1, line 10, by deleting same and inserting in lieu thereof the following:

"(2) *The commission of the offense set out in this section may be repelled by nondeadly force, with deadly force being authorized only where it may be allowed by other applicable law, including the provisions of KRS Chapter 503.*

(3) Rape in the third degree is a Class D felony."; and

On page 1, line 20, by deleting same and inserting in lieu thereof the following:

"(2) *The commission of the offense set out in this section may be repelled by nondeadly force, with deadly force being authorized only where it may be allowed by other applicable law, including the provisions of KRS Chapter 503.*

(3) Sodomy in the third degree is a Class D felony.".

Floor Amendment No. 8 to the Committee Substitute to **SB 227**, by Representative Riner:

On page 2, after line 14, by inserting the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

Where the commission of an offense set out in this chapter is directed against the person of another, that other person may use nondeadly force to repel the commission of the offense, with deadly force being authorized only where it may be allowed by other applicable law, including the provisions of KRS Chapter 503."

Floor Amendment No. 13 to the Committee Substitute to **SB 227**, by Representative Riner:

On page 2, after line 14, by inserting the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

(1) Upon the indictment of a defendant for any felony offense under this chapter, the prosecutor to which the indictment was returned shall inquire of the victim of the offense as to whether the victim would like to execute a form authorizing contact of the victim by a member of the Kentucky General Assembly, the Attorney General, the Governor's Office of Child Abuse and Domestic Violence Services, or their authorized staffs as to the efficiency and justice of the criminal justice system's handling of the crime committed against that victim.

(2) An authorization executed under this section shall be retained by the prosecutor's office which requested the authorization from the victim for ten (10) years or until the victim asks for the form to be withdrawn.

(3) An authorization executed under this section shall be confidential and open for inspection only by members of the General Assembly, the Attorney General, the Governor's Office of Child Abuse and Domestic Violence Services, and their authorized staff.".

Floor Amendment No. 9 to the Committee Substitute to **SB 227**, by Representative Riner:

On page 1, line 10, by deleting same and inserting in lieu thereof the following:

"(2) *The commission of the offense set out in this section may be repelled by nondeadly force, with deadly force being authorized only where it may be allowed by other applicable law, including the provisions of KRS Chapter 503.*

(3) Rape in the third degree is a Class D felony."; and

On page 1, line 20, by deleting same and inserting in lieu thereof the following:

"(2) *The commission of the offense set out in this section may be repelled by nondeadly force, with deadly force being authorized only where it may be allowed by other applicable law, including the provisions of KRS Chapter 503.*

(3) Sodomy in the third degree is a Class D felony."; and

On page 2, line 14, by deleting same and inserting in lieu thereof the following:

"(2) *The commission of the offense set out in this section may be repelled by nondeadly force, with deadly force being authorized only where it may be allowed by other applicable law, including the provisions of KRS Chapter 503.*

(3) Sexual abuse in the second degree is a Class A misdemeanor."; and

On page 2, after line 14, by inserting the following:

"Section 4. KRS 510.130 is amended to read as follows:

(1) A person is guilty of sexual abuse in the third degree when:

(a) He subjects another person to sexual contact without the latter's consent.

(b) In any prosecution under this section, it is a defense that:

1. The other person's lack of consent was due solely to incapacity to consent by reason of being less than sixteen (16) years old; and
2. The other person was at least fourteen (14) years old; and
3. The actor was less than five (5) years older than the other person.

(2) ***The commission of the offense set out in this section may be repelled by nondeadly force, with deadly force being authorized only where it may be allowed by other applicable law, including the provisions of KRS Chapter 503.***

(3) Sexual abuse in the third degree is a Class B misdemeanor.

Section 5. KRS 510.140 is amended to read as follows:

(1) A person is guilty of sexual misconduct when he engages in sexual intercourse or deviate sexual intercourse with another person without the latter's consent.

(2) ***The commission of the offense set out in this section may be repelled by nondeadly force, with deadly force being authorized only where it may be allowed by other applicable law, including the provisions of KRS Chapter 503.***

(3) Sexual misconduct is a Class A misdemeanor.".

Floor Amendment No. 11 to the Committee Substitute to **SB 227**, by Representative Riner:

On page 1, line 10, by deleting same and inserting in lieu thereof the following:

"(2) ***The commission of the offense set out in this section may be repelled by nondeadly force, with deadly force being authorized only where it may be allowed by other applicable law, including the provisions of KRS Chapter 503.***

(3) Rape in the third degree is a Class D felony."; and

On page 1, line 20, by deleting same and inserting in lieu thereof the following:

"(2) ***The commission of the offense set out in this section may be repelled by nondeadly force, with deadly force being authorized only where it may be allowed by other applicable law, including the provisions of KRS Chapter 503.***

(3) Sodomy in the third degree is a Class D felony."; and

On page 2, line 14, by deleting same and inserting in lieu thereof the following:

"(2) ***The commission of the offense set out in this section may be repelled by nondeadly force, with deadly force being authorized only where it may be allowed by other applicable law, including the provisions of KRS Chapter 503.***

(3) Sexual abuse in the second degree is a Class A misdemeanor.".

Floor Amendment No. 14 to **SB 227**, by Representative Riner:

On page 2, after line 6, by inserting the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

(1) Upon the indictment of a defendant for any felony offense under this chapter, the prosecutor to which the indictment was returned shall inquire of the victim of the offense as to whether the victim would like to execute a form authorizing contact of the victim by a member of the Kentucky General Assembly, the Attorney General, the Governor's Office of Child Abuse and Domestic Violence Services, or their authorized staffs as to the efficiency and justice of the criminal justice system's handling of the crime committed against that victim.

(2) An authorization executed under this section shall be retained by the prosecutor's office which requested the authorization from the victim for ten (10) years or until the victim asks for the form to be withdrawn.

(3) An authorization executed under this section shall be confidential and open for inspection only by members of the General Assembly, the Attorney General, the Governor's Office of Child Abuse and Domestic Violence Services, and their authorized staff.".

Floor Amendment No. 1 to **SJR 109**, by Representative Nelson:

In the last "WHEREAS" clause, after the word "community;" by inserting "and"; and

After the last whereas clause, by inserting the following:

"WHEREAS, Dr. R. R. Evans, a native of Bell County, Kentucky, spent his entire life helping and serving the citizens of Bell County; and

WHEREAS, Dr. R. R. Evans served as a coal camp doctor and operated a private practice in the community of Arjay for over sixty years, from 1929 to 1990; and

WHEREAS, Dr. R. R. Evans served for twenty years on the Bell County Board of Education; and

WHEREAS, Dr. R. R. Evans has had a profound, direct, and personal impact on thousands of Bell Countians, and is fondly remembered for his acts of charity and goodwill;"; and

On page 1, after line 6, by inserting the following:

" Section 3. The Transportation Cabinet shall name the bridge at the junction of Kentucky Route 221 and Kentucky Route 66 in Bell County the "Dr. R. R. Evans Memorial Bridge."

Section 4. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs on the bridge specified in Section 3 of this Act that read "Dr. R. R. Evans Memorial Bridge." ".

Floor Amendment No. 2 Title to **SJR 109**, by Representative Nelson:

By amending the title to "A JOINT RESOLUTION naming various bridges."

Floor Amendment No. 8 to **SB 139**, by Representative Westrom:

On page 16, line 27, after the semicolon, by deleting "***or***";

On page 17, line 2, by deleting the "***.***" and inserting " ***; or***" in lieu thereof; and

On page 17, between lines 2 and 3, by inserting the following;

"***(9) An employee of a private investigator or a private investigating firm who works under the directions of the private investigator or the private investigating firm for less than three hundred fifty (350) hours per year.***".

Floor Amendment No. 6 to the Committee Substitute to **HB 600**, by Representative Barrows:

On page 1, on lines 4 through 7 by deleting subsection *(1)* in its entirety and by inserting in lieu thereof:

"***(1) (a) "Capital project "means the:***

1. Construction, reconstruction, and acquisition of buildings owned and leased by a state agency; and

2. Acquisition of real property for facilities owned or operated by a state agency; and

(b) "Capital project" does not include a road construction project under KRS Chapters 175, 176, 177, and 180; and"; and

On page 3, line 11, before the word "***members***" by deleting the words "***ex officio***"; and

On page 3, line 12, after the word "***committee***" by inserting "***listed in subsection (2) of Section 6 of this Act***"; and

On page 5, line 24 after the word "***committee***" by deleting the word "***may***" and by inserting in lieu thereof the word "***shall***".

Floor Amendment No. 4 to the Committee Substitute to **HB 825**, by Representative Moberly:

On page 30, line 13, by deleting the new language in its entirety; and

On page 30, line 14, by deleting the new language in its entirety and removing the brackets and strike throughs; and

On page 30, line 15, by deleting the new language in its entirety; and

On page 30, line 16, by deleting the new language in its entirety; and

On page 33, beginning on line 1 and ending on line 26, by removing the brackets and strike throughs; and

On page 33, line 4, after "(4%)" by inserting the following: "***, exclusive of the assessment resulting from new property***"; and

On page 33, line 19, after the comma "," by inserting the following "***exclusive of revenue from new property,***"; and

On page 33, line 26, by deleting the new language in its entirety; and

On page 33, line 27, by deleting the new language in its entirety and by removing the brackets and strike throughs; and

On page 34, line 5, by deleting "*(7)*" and removing the brackets and strike throughs; and

On page 34, line 13, by deleting "*(8)*" and removing the brackets and strike throughs; and

On page 34, line 16, by deleting "*(9)*" and removing the brackets and strike throughs; and

On page 34, line 19, by deleting "*(10)*" and removing the brackets and strike throughs; and

On page 36, line 3, by deleting "*(7)*" and removing the brackets and strike throughs.

Floor Amendment No. 7 to the Committee Substitute to **HB 600**, by Representative A. Arnold:

On page 2, line 8 after the word "***programs;***" by deleting the word "***and***"; and

On page 2, line 13 after the word "***resources***" by deleting the "***.***" and by inserting in lieu thereof "***; and***"; and

On page 2, after line 13 by inserting the following:

"***(c) Be the successor to the Interagency Farmland Advisory Committee.***"; and

On page 5, line 7, after the word "***proposed***" by deleting the word "***capital***" and by inserting in lieu thereof the word "***state***"; and

On page 5, line 23, after the words "***review of***" by deleting the word "***capital***"; and

On page 6, line 16, after the word "***proposed***" by deleting the word "***state***".

Motions, Petitions, and Communications (Continued)

The following member filed a request to have his name added as co-sponsor of a Bill:

HB 737, Representative Vincent

Announcements

The following meetings were announced:

Labor and Industry: Tuesday, March 26, 2002, noon, canceled

Appropriations and Revenue: Tuesday, March 26, 2002, 10:00 a.m.

Natural Resources and Environment: Tuesday, March 26, 2002, canceled

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m. on Tuesday, March 26, 2002.

The motion that the House adjourn until 2:00 p.m., Tuesday, March 26, 2002, was adopted by voice vote.

TUESDAY, MARCH 26, 2002

FIFTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Wallace Kent, Crestwood Baptist Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of March 25, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 221, HB 154, HB 157, HB 163, HB 358, HB 415, HB 574, HB 589, HB 618, HB 648, HB 649,** and **HCR 104**.

Message received in regard to **HB 347**: The Senate has passed **HB 347**, with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HCR 13**: The Senate has passed **HCR 13**, with Senate Floor Amendment No. 1 and Senate Floor Amendment No. 2 Title and respectfully requests concurrence of this Honorable Body. (Time: 2:10 p.m.)

Representative Graham moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation and a Resolution. Agreed.

Representative Graham moved the adoption of the following **Legislative Citation No. 110**.

The House of Representatives of the Commonwealth of Kentucky hereby offers sincere congratulations to the Stewart Home School Basketball Team 2002 State Special Olympics Champions upon bringing home the gold medal for winning the 2002 Special Olympics State Basketball Tournament. Inasmuch as the members of this remarkable team, under the exceptional guidance of Coach Karen Black, have demonstrated great talent and dedication to the sport of basketball and, as a result, have brought honor and acclaim to their school, community and this great Commonwealth, the members of this honorable body are delighted to join with Representative Gippy Graham in applauding the accomplishments of the Stewart Home School Basketball Team and in extending best wishes to all those who have contributed to the success of this group of enthusiastic and well-deserving athletes. Done in Frankfort, Kentucky, this twenty-sixth day of March, in the year two thousand and two.

Legislative Citation No. 110 was adopted without objection.

Introduction of Bills and Resolutions

HR 262, by Representative Graham: A RESOLUTION adjourning the House of Representatives in honor of Donald A. and Lillian B. Nunnelly upon the occasion of their fiftieth wedding anniversary on July 5, 2002.

Representative Graham moved the adoption of the following **HR 262**:

HR 262, A RESOLUTION adjourning the House of Representatives in honor of Donald A. and Lillian B. Nunnelly upon the occasion of their fiftieth wedding anniversary on July 5, 2002.

WHEREAS, marriage can be likened to a flower, watered by the showers of tender affection, expanded by the cheering glow of kindness, and guarded by the impenetrable barrier of unshaken confidence; and

WHEREAS, Donald A. and Lillian B. Nunnelly entered into the bonds of holy matrimony in Hagerstown, Maryland, on July 5, 1952; and

WHEREAS, Donald A. and Lillian B. Nunnelly are the loving parents of Martha S. and Maurice Royster, David E. and Jane Nunnelly, and Mark E. Nunnelly and Denise Dupre; and they are the proud grandparents of eleven grandchildren; and

WHEREAS, Donald A. Nunnelly retired in 1991 as pastor of the First Christian Church in Frankfort, and, in addition to his pastoral responsibilities at First Christian Church, on numerous occasions has opened sessions of the Kentucky General

Assembly with prayer, as well as arranging for other Frankfort pastors to give invocations; and

WHEREAS, Lillian B. Nunnelly is a retired director of the Thorn Hill Adult Learning Center in Frankfort, and was employed by the Kentucky General Assembly during a number of legislative sessions where she worked on the Senate floor; and

WHEREAS, Donald A. and Lillian B. Nunnelly have experienced fifty years filled with love, perpetual friendship, confidence, and integrity, and they continue to share these feelings of respect and love for one another, and now that they have retired, they travel often, and much emphasis is placed on maintaining family relationships and participating in events of their loving grandchildren; and

WHEREAS, to celebrate this glorious occasion, the children and grandchildren of Donald A. and Lillian B. Nunnelly are planning formal festivities at the summer compound of Mark Nunnelly and Denise Dupre on Nantucket Island, off the coast of Massachusetts, on July 5, 2002, a special day of celebration, rejoicing, and reminiscing;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives holds the institution of marriage in high esteem, and is proud and honored to recognize Donald A. and Lillian B. Nunnelly upon the occasion of their fiftieth wedding anniversary on July 5, 2002. We wish to them many more years of devoted companionship.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Donald A. and Lillian B. Nunnelly upon the occasion of their fiftieth wedding anniversary on July 5, 2002.

There being no objection **HR 262** was adopted.

Representative Colter moved that the rules be suspended to act upon a Legislative Citation.

Representative Colter moved the adoption of the following **Legislative Citation No. 111**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the fourth and fifth grade students and teachers of W.B. Muncy Elementary School as they visit the Capitol in Frankfort, Kentucky, to witness a day of the 2002 Regular Session of the Kentucky General Assembly in order to learn more about the history and legislative process of the Commonwealth of Kentucky. Therefore, this most honorable body is delighted to join with Representative Barbara White Colter in welcoming these esteemed citizens and in wishing for them continued success and good fortune. Done in Frankfort, Kentucky, this twenty-sixth day of March, in the year two thousand and two.

Legislative Citation No. 111 was adopted without objection.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bill and Resolutions:

Appropriations and Revenue: **HR 259**

Judiciary: **SB 273**

Floor Resolutions: **HR 256, 257, 258, 260, 261**

Report of Committee

A Conference Committee Report was filed on **HB 97**.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Education: **SB 210**

Report of Committees

The Committee on Seniors, Military Affairs and Public Safety reported **HR 32** and **SB 223** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 32, A RESOLUTION urging the United States Army to dispose of chemical weapons at the Bluegrass Army Depot without delay.

WHEREAS, the residents of Madison County and the residents of surrounding areas, including Lexington and Fayette County, are living with the fear that 523 tons of deadly nerve and blister agent that is stored in their very backyards at Bluegrass Army Depot will inadvertently be released; and

WHEREAS, the fear of nerve gas release is very real with the knowledge that it is contained in outdated weapons that are obsolete and deteriorating; and

WHEREAS, the September 11, 2001, terrorist attack on America has ably demonstrated that terrorists are determined to kill innocent Americans by attacking American targets where the most lives can be lost; and

WHEREAS, the prospect of a terrorist attack on nerve gas storage sites is even more alarming than the prospect of the unintentional release of these deadly gasses; and

WHEREAS, in 1985, Congress ordered the Defense Department to start destroying its aging chemical weapons stocks, and

WHEREAS, despite this order, the United States Army has yet to dispose of the nerve gas weapons at Bluegrass Army Depot; and

WHEREAS, the public safety of thousands of Kentucky citizens hangs in the balance while the United States Army engages in endless debate and endless postponements;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the United States Army is urged to proceed with the destruction of chemical weapons at Bluegrass Army Depot in Madison County, Kentucky, without undue delay.

Section 2. That the Clerk of the House of Representatives is directed to mail a copy of this Resolution to Donald H. Rumsfeld, Secretary of Defense, 101 Army Pentagon, Washington, DC 20310-0101; Thomas E. White, Secretary of the Army, 1000 Defense Pentagon, Washington, DC 20301-1000; Senator Mitch McConnell, 361-A Russell Senate Office Building, Washington, DC 20510; Senator Jim Bunning, 316 Hart Senate Office Building, Washington, DC 20510; Representative Edward Whitfield, 236 Cannon House Office Building, Washington, DC 20515; Representative Ron Lewis, 2418 Rayburn House Office Building, Washington, DC 20515; Representative Anne Northup, 1004 Longworth House Office Building, Washington, DC 20515; Representative Ken R. Lucas, 1237 Longworth House Office Building, Washington, DC 20515; Representative Harold Rogers, 2406 Rayburn House Office Building, Washington, DC 20515; and Representative Ernest Fletcher, 1117 Longworth House Office Building, Washington, DC 20515.

SB 223, AN ACT relating to service records of military personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 422.090 is amended to read as follows:

(1) All discharge papers, given, executed or delivered to any person in the military or naval service of the United States, which evidence his discharge from the service of the United States and show the unit or part of the department to which he was attached and from which he was discharged may be recorded in the office of the county clerk of the county in which the person discharged is a resident. Upon the presentation of such discharge papers the county clerk shall record them, without charge therefor, in a suitable book which he shall provide for that purpose.

(2) A certified or attested copy of such recorded discharge is admissible evidence in all proceedings in which such discharge may come in question or in which it might be used as legal evidence of any fact. ***A certified or attested copy shall be made available to the veteran upon proof of identity. A certified or attested copy shall also be made available under a court order, by request of a person holding a power of attorney of the veteran, or upon the request of a person appointed by the court over the estate of the veteran.***

(3) It shall be the duty of each county clerk to index alphabetically the name of each person whose discharge papers are recorded as provided in this section and to keep such index as a permanent record in such office. The index may be bound with the book in which the discharge papers are recorded, or may be a separate bound index, to be kept with the book in which the discharge papers are recorded.

(4) All discharge papers recorded with the county clerk shall remain with the county clerk as a non-public record and shall not be made available for public inspection.

The Committee on Appropriations and Revenue reported **SB 38** with the expression of opinion that the same should pass. Referred to the Committee on Rules.

The Committee on Appropriations and Revenue reported and **SB 193** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 193, AN ACT relating to environmental cleanup and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.60-115 is amended to read as follows:

As used in KRS 224.60-120 to 224.60-150, unless the context otherwise requires:

(1) "Bodily injury and property damage" means only those actual economic losses to an individual or the individual's property resulting from bodily injuries and damages to property caused by a release into the environment from a petroleum storage tank. In this context, property damage includes damage to natural resources;

(2) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(3) "Claim" means any demand in writing for a certain sum;

(4) "Corrective action" means those actions necessary to protect human health and the environment in the event of a release from a petroleum storage tank. Corrective action includes initial responses taken pursuant to KRS 224.60-135, remedial actions to clean up contaminated groundwater, surface waters, or soil, actions to address residual effects after initial corrective action is taken, and actions taken to restore or replace potable water supplies. Corrective action also includes actions necessary to monitor, assess, and evaluate a release, as well as actions necessary to monitor, assess, and evaluate the effectiveness of remedial action after a release has occurred;

(5) "Dealer" means a person required to be licensed as a gasoline or special fuels dealer as defined in KRS 138.210(2);

(6) "Facility" means, with respect to any owner or operator, all petroleum storage tanks which are owned or operated by an owner or operator and are located on a single parcel of property or on any contiguous or adjacent property;

(7) "Federal regulations" means regulations for underground petroleum storage tanks promulgated by the United States Environmental Protection Agency pursuant to Subtitle I of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act;

(8) "Free product" means a regulated substance that is present as a non-aqueous phase liquid;

(9) "Fund" means the petroleum storage tank environmental assurance fund ***and its subaccounts, the financial responsibility account and the petroleum storage tank account*** established pursuant to KRS 224.60-140;

(10) "Gasoline" means gasoline as defined in KRS 138.210(4);

(11) "Motor fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any grade of gasohol, that is typically used in the operation of a motor engine, jet fuel, and any petroleum or petroleum-based substance typically used in the operation of a motor vehicle, including used motor vehicle lubricants and oils;

(12) "Occurrence" means a release, or releases, of an accidental nature, requiring corrective action, from a petroleum storage tank or tanks located at the same facility, due to continuous or repeated exposure to conditions. An additional release or releases at the same facility in which the area requiring remedial action is separate from a previous remediation area or areas shall be considered a separate occurrence;

(13) "Office" means the Office of Petroleum Storage Tank Environmental Assurance Fund;

(14) "Person" means an individual, trust, firm, joint stock company, federal agency, corporation, the state, a municipality, commission, or political subdivision of the state. The term includes a consortium, a joint venture, the United States government, or a commercial entity;

(15) "Petroleum" and "petroleum products" means crude oil, or any fraction thereof, which is liquid at standard conditions of temperature and pressure, which means at sixty (60) degrees Fahrenheit and 14.7 pounds per square inch absolute. The term includes motor gasoline, gasohol, other alcohol-blended fuels, diesel fuel, heating oil, special fuels, lubricants, and used oil;

(16) "Petroleum storage tank" means an underground storage tank, as defined by KRS 224.60-100, which contains petroleum or petroleum products but, for the purpose of participation or eligibility for the fund, shall only include tanks containing motor fuels and shall not include petroleum storage tanks used exclusively for storage of fuel used in the operation of a commercial ship or vessel or tanks used exclusively for storage of fuel used for the purposes of powering locomotives or tanks owned by a federal agency or the United States government;

(17) "Petroleum storage tank operator" means any person in control of, or having responsibility for, the daily operation of a petroleum storage tank;

(18) "Petroleum storage tank owner" means the person who owns a petroleum storage tank, except that petroleum storage tank owner does not include any person who, without participation in the management of a petroleum storage tank, holds indicia of ownership primarily to protect a security interest in the tank;

(19) "Received" means the same as defined in KRS 138.210(5);

(20) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a petroleum storage tank into groundwater, surface water, or surface or subsurface soils. The term shall not include releases that are permitted or authorized by the state or federal law;

(21) "Special fuels" means special fuels as defined in KRS 138.210(4); and

(22) "Third party" means a person other than the owner or operator of a facility, or the agents or employees of the owner or operator, who sustains bodily injury or property damage as a result of a release from that facility.

Section 2. KRS 224.60-130 is amended to read as follows:

(1) There is created within the Public Protection and Regulation Cabinet, Office of the Secretary, the Office of Petroleum Storage Tank Environmental Assurance Fund.

(2) The Office of Petroleum Storage Tank Environmental Assurance Fund shall:

(a) Establish by administrative regulation the policy, guidelines, and procedures to administer the ***financial responsibility and petroleum storage tank accounts of the*** petroleum storage tank environmental assurance fund. In adopting administrative regulations to carry out this section, the office may distinguish between types, classes, and ages of petroleum storage tanks. The office may establish a range of amounts to be paid from the fund, or may base payments on methods such as pay for performance, task order, or firm fixed pricing, which are designed to provide incentives for contractors to more tightly control corrective action costs, and shall establish criteria to be met by persons who contract to perform corrective action to be eligible for reimbursement from the fund. The criteria may include the certification of individuals, partnerships, and companies. Criteria shall be established to certify laboratories that contract to perform analytical testing related to the underground storage tank program.[~~ The criteria for certification of laboratories shall be established no later than January 1, 1999. After April 1, 1999,~~] Owners and operators shall have all required analytical testing performed by a certified laboratory to be eligible for fund participation. Persons who contract with petroleum storage tank owners or operators shall not be paid more than the amount authorized by the office for reimbursement from the fund for the performance of corrective action. At a minimum, the office shall promulgate administrative regulations that will insure an unobligated balance in the fund adequate to meet financial assurance requirements and corrective action requirements of KRS 224.60-135(2) and (4). If the unobligated balance in the fund is not adequate to meet the requirements of this paragraph, the office shall obligate funds necessary to meet these requirements;

(b) Establish by administrative regulation the criteria to be met to be eligible to participate in the ***financial responsibility and petroleum storage tank accounts***[~~fund~~] and ***to*** receive reimbursement from ***these accounts***[~~the fund~~]. The office may establish eligibility criteria ***for the petroleum storage tank account*** based upon the financial ability of the petroleum storage tank owner or operator. ***Owners or operators seeking coverage under the petroleum storage tank account shall file for eligibility and for financial assistance with the office on or before January 15, 2004.*** To insure cost effectiveness, the office shall promulgate administrative regulations specifying the circumstances under which prior approval of corrective action costs shall be required for those costs to be eligible for reimbursement from the fund. In promulgating administrative regulations to carry out this section, the office may distinguish between types, classes, and ages of petroleum storage tanks and the degree of compliance of the facility with any administrative regulations of the cabinet promulgated pursuant to KRS 224.60-105 or applicable federal regulations;

(c) Establish a financial responsibility account within the fund which may be used by petroleum storage tank owners and operators to demonstrate financial responsibility as required by administrative regulations of the cabinet or the federal ***regulations applicable to***[~~government for~~] petroleum storage tanks, consistent with the intent of the General Assembly as set forth in KRS 224.60-120(5). ***The account shall receive four-tenths of one cent ($0.004) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145***[~~The amount to be maintained in this account shall be established by the office~~]. To be eligible to use this account to demonstrate compliance with financial responsibility requirements of the cabinet or federal regulations, or to receive reimbursement from this account for taking corrective action and for compensating third parties for bodily injury and property damage, the petroleum storage tank owner or operator shall meet the eligibility requirements established by administrative regulation promulgated by the office;

(d) Establish a small operator assistance account within the fund which may be used by the office to make or participate in the making of loans, to purchase or participate in the purchase of the loans, which purchase may be from eligible lenders, or to insure loans made by eligible lenders;

(e) Establish a petroleum storage tank account within the fund to be used to pay the costs of corrective action due to a release from a petroleum storage tank not eligible for reimbursement from the financial responsibility account. ***Reimbursements of corrective action projects performed under the petroleum storage tank account shall be carried out on or before July 15, 2009. Any corrective action costs incurred after this date shall not be eligible for reimbursement under the petroleum storage tank account. The account shall receive one cent ($0.01) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145.*** This account shall not be used to compensate third parties for bodily injury and property damage. ***Within three (3) months after the effective date of this Act, the office shall develop a plan to***

address the payment of claims and completion of corrective action at facilities eligible for reimbursement from this account. The office shall establish a ranking system to be used for the distribution of amounts from this account for the purpose of corrective action. In promulgating administrative regulations to carry out this section, the office shall consider the financial ability of the petroleum storage tank owner or operator to perform corrective action and the extent of damage caused by a release into the environment from a petroleum storage tank;

(f) Hear complaints brought before the office regarding the payment of claims from the fund in accordance with KRS Chapter 13B;

(g) Establish and maintain necessary offices within this state, appoint employees and agents as necessary, and prescribe their duties and compensation;

(h) Employ, in accordance with the procedures found in KRS 45A.690 to 45A.725 for awarding personal service contracts, a qualified actuary to perform an actuarial study, ***as directed by the office, for determining an appropriate reserve in the financial responsibility account and the petroleum storage tank account sufficient to satisfy the obligations in each account for all eligible facilities and to satisfy future liabilities and expenses necessary to operate each account***[~~no less than every two (2) years, that recommends to the office an actuarially sound entry level to the fund prior to two (2) years from April 9, 1990~~]. The office shall, by administrative regulation, set the entry level for participation in the fund;

(i) Authorize expenditures from the fund to carry out the purpose of KRS 224.60-105 to 224.60-160, including reasonable costs of administering the fund, the procurement of legal services, and the procurement of analytical testing services when necessary to confirm the accuracy of analytical testing results obtained by a petroleum storage tank owner or operator***. The expenditures shall be paid from the appropriate account***;

(j) Establish a small operators' tank removal account within the fund to reimburse the reasonable cost of tank system removal for small owners and operators. The account shall not be used when an owner or operator is removing the tank with the intention of replacing or upgrading the tank. In promulgating administrative regulations to carry out this paragraph, the office may distinguish among owners and operators based on income, number of tanks, number of facilities, and types and classes of tanks;

(k) Establish by administrative regulation the policy, guidelines, and procedures to perform financial audits of any petroleum storage tank owner or operator receiving reimbursement from the fund or any entity contracting or subcontracting to provide corrective action services for facilities eligible for fund reimbursement. Financial audits shall be limited to those files, records, computer records, receipts, and other documents related to corrective action performed at a facility where the costs of corrective action have been reimbursed by the fund. Files, records, computer records, receipts, and other documents related to corrective action reimbursed by the fund shall be subject to a financial audit for a period of three (3) years after the date of final reimbursement from the fund. Results of the audits shall be protected from disclosure as allowed by KRS 61.878(1)(c). Financial auditing services may be contracted for or personnel may be employed as needed to implement the requirements of this paragraph;

(l) Be authorized to enter and inspect any facility intending to seek reimbursement for the cost of corrective action to determine the reasonableness and necessity of the cost of corrective action. The office may collect soil or water samples or require storage tank owners or operators to split samples with the office for analytical testing. Refusal to allow entry and inspection of a facility or refusal to allow the office to collect or split samples shall make the facility ineligible for fund participation;[~~ and~~]

(m) Have[~~, after April 1, 1999,~~] assurance fund auditors on site at all tank system removals. Failure to comply with this provision shall make the facility ineligible for fund participation. A petroleum storage tank owner or operator may request through certified mail that the office schedule an assurance fund auditor to be present at an upcoming tank removal. If the request is made at least two (2) weeks before the time for the removal and an auditor fails to be present at the time scheduled, the tank removal may proceed without making the facility ineligible for fund participation unless the owner is notified by the assurance fund no later than ten (10) days prior to the proposed date that an auditor is not available on the proposed date, in which event a representative of the assurance fund shall contact the operator and schedule a new date. If no auditor is present at the rescheduled date, the removal may then proceed without penalty***; and***

(n) Establish that the deadline for submission of final reimbursement requests under the petroleum storage tank account is two (2) years after receipt of a no further action letter or by July 15, 2010, whichever is earlier. Claims received after July 15, 2010, are not eligible for reimbursement.

The funding and operations of the small operator assistance account and the small operator's tank removal account shall end on July 15, 2004.

(3) The office may advise the cabinet on the promulgation of administrative regulations concerning petroleum storage tanks.

(4) The office may sue and be sued in its own name.

Section 3. KRS 224.60-137 is amended to read as follows:

(1) ***It is the intent of the General Assembly, when funds are available, that the University of Kentucky update the study***

completed in July, 1995, and recommend amendments to standards for levels of petroleum contamination, including lead and other additives, requiring corrective action to adequately protect human health, safety, and the environment established in administrative regulations promulgated by the cabinet, based on new information or changes in federal law[~~The office shall have a study performed to identify appropriate standards for corrective action for a release into the environment from a petroleum storage tank. The study shall address, but not be limited to, standards for levels of petroleum contamination, including lead, requiring corrective action to adequately protect human health, safety, and the environment consistent with accepted scientific and technical principles and federal law. The standards shall take into account distances to environmentally sensitive features, including surface waters, wetlands, nature preserves, protected ecological areas, springs and wells used for domestic water supply, and well head protection areas. The office shall contract with a person or persons to perform the study qualified in the areas of engineering, hydrogeology, geology, toxicology, epidemiology, biology, public health, chemistry, and risk assessment. The office shall provide for the October 18, 1993 study performed by the University of Kentucky to be completed within one hundred twenty (120) days of April 11, 1994, to comply with the requirements of this subsection~~].

(2) The office shall contract with the University of Kentucky ***when funds are available***[~~, or another person or persons having the qualifications established in subsection (1) of this section, to recommend revisions or amendments to the study based upon new information or changes in federal law, and to review and comment to the office upon the consistency with the completed study of administrative regulations proposed by the cabinet pursuant to subsection (3) of this section. The person contracted with to recommend revisions or amendments to the study shall identify in writing any inconsistencies of the draft administrative regulations required by subsection (4) of this section with the completed study. The cabinet shall comment to the office on the completed study report and any proposed revisions or amendments to the study. The office shall approve the completed study report and any revisions or amendments to the study~~].

(3) The cabinet shall, by administrative regulation, ***adopt***[~~establish~~] standards for corrective action for a release into the environment from a petroleum storage tank. The administrative regulations shall adequately protect human health, safety, and the environment, and ***may consider***[~~shall incorporate~~] the study ***and any revisions or amendments to it*** performed for the office, except as necessary to comply with federal law[~~ or as provided in subsection (4) of this section~~].

(4)[~~ Within ninety (90) days of the receipt of the completed study report, the cabinet shall prepare draft administrative regulations for submission to and review by the person performing the study. The comments required pursuant to subsection (2) of this section shall be filed with the office and the cabinet within sixty (60) days of receipt of the draft administrative regulations by the office. If any inconsistencies are identified, the person conducting the review and the cabinet shall confer to resolve the inconsistencies, and report to the office within sixty (60) days. If the person conducting the review and the cabinet are unable to resolve the inconsistencies, the cabinet and the office shall appoint an independent peer review group to resolve the inconsistencies and recommend amendments to the draft administrative regulations within sixty (60) days of appointment. The peer review group shall be appointed by agreement of the cabinet and the office. The cabinet shall amend the draft administrative regulations to incorporate the amendments recommended by the peer review group and file the administrative regulations with the Legislative Research Commission within sixty (60) days of receipt. The administrative regulations shall be promulgated pursuant to the provisions of KRS Chapter 13A.~~

~~(5)~~] ***Within ninety (90) days of the effective date of this Act, the cabinet shall develop a final cleanup plan addressing the completion of corrective action at facilities eligible for reimbursement from the fund. The final cleanup plan shall include an inventory of facilities eligible for reimbursement from the financial responsibility account and the petroleum storage tank account and the current status of each facility within the corrective action process. The cabinet shall update the inventory and the status of the facilities and submit the information quarterly to the Legislative Research Commission***[~~Notwithstanding any provisions of law or KRS Chapter 13A to the contrary, the emergency administrative regulations filed by the cabinet in February 1994 shall remain in effect until the administrative regulations required by subsection (3) of this section are adopted and effective pursuant to the provisions of KRS 13A.330~~].

Section 4. KRS 224.60-140 is amended to read as follows:

(1) There is hereby created the petroleum storage tank environmental assurance fund. The fund ***shall consist of a financial responsibility account and a petroleum storage tank account. Each account*** shall be maintained as a separate and distinct interest-bearing account. ***Interest credited to an account shall be retained in that account.*** All of the following amounts shall be deposited in the fund:

(a) ***Four-tenths of one cent ($0.004) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145 to the financial responsibility account***[~~Any interest earned upon money deposited in the fund~~];

(b) ***One cent ($0.01) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145 to the petroleum storage tank account;***

(c) Money appropriated by the General Assembly for deposit in ***each account***[~~the fund~~];

(d)[~~(c)~~]Any money recovered by the fund pursuant to this section ***shall be deposited in the appropriate account***; and

(e)[~~(d)~~]Any money collected in the form of penalties levied pursuant to KRS 224.60-155 ***shall be deposited to the appropriate account***.

(2) Money in the ***fund, financial responsibility account and the petroleum storage tank account shall***[~~fund may~~] be used by

the office for the following purposes:

(a) To reimburse petroleum storage tank owners or operators for the costs, expenses, and other obligations incurred for corrective action ***required by the cabinet to be undertaken*** as the result of a release into the environment from a petroleum storage tank. Reimbursement shall be limited to only those costs, expenses, and other obligations incurred to comply with corrective action requirements established ***in law or administrative regulation*** by the cabinet. Additional costs related to compliance with a local program operating under KRS 224.60-105(4) shall be neither reimbursable by the fund nor imposed on the owner or operator. Reimbursement shall not include the costs related to the removal, or actions incidental to the removal, of a tank system except as authorized under KRS 224.60-130(2)(j);

(b) For payment of or reimbursement for third-party claims for bodily injury and property damage***, related to a facility eligible for participation in the financial responsibility account,*** which are asserted against a petroleum storage tank owner or operator as a result of a release into the environment from a petroleum storage tank;

(c) To pay the reasonable***, prorated*** costs incurred by the office in administering ***each account***~~[the fund]~~; ***and***

(d)~~[Payment to the cabinet of the costs of implementing the tank registration required by KRS 224.60-142; and~~

~~(e)]~~ ***The cost*** to operate the small operators' assistance account pursuant to KRS 224.60-130(2)(d), the small operators' tank removal account pursuant to KRS 224.60-130(2)(j), to perform or contract for the performance of financial audits conducted under KRS 224.60-130(2)(k), and to employ sufficient assurance fund auditors to carry out the provisions of KRS 224.60-130 and to set forth their duties***. These costs shall be prorated to each account***.

(3) The use of the fund shall not exceed one million dollars ($1,000,000) per occurrence for corrective action and one million dollars ($1,000,000) per occurrence for compensating third parties for bodily injury and property damage.

(4) Money in the fund may be used by the cabinet for costs incurred by the cabinet for corrective action taken pursuant to KRS 224.60-135(2) and (4).

(5) The fund shall be used to guarantee payment of reasonable costs and expenses to a contractor performing corrective action under contract with a petroleum storage tank owner or operator subject to entry level amounts payable by the petroleum storage tank owner or operator. Money in the fund shall be obligated to secure the guarantee.

(6) A petroleum storage tank owner or operator may apply to the office for reimbursement from the fund of costs to perform corrective action, except that the petroleum storage tank owner or operator shall be responsible for and shall not be reimbursed for an amount equal to the entry level into the fund as set pursuant to administrative regulation of the office.

(7) The office or its designated agent shall issue all decisions made on claims filed pursuant to this section in writing, with notification to all appropriate parties, within ninety (90) days after submission of the claim, unless all parties to the claim agree in writing to an extension of time. ***The office shall by phone or facsimile transmission immediately notify the claim applicant and its consultant, if applicable, when the claim is determined to be deficient. The notification shall provide sufficient information to allow the applicant and its consultant, if applicable, to begin to correct the deficiency. The office shall then notify the applicant and its consultant, if applicable, by certified mail of the deficiency. The notice shall indicate how many days remain in the ninety (90) day review period from the time of mailing. When the office receives information that corrects the deficiency, the office shall complete the review of the claim within the time remaining in the ninety (90) day review period, but not to exceed forty-five (45) days.***

(8) Except as provided in subsection (9), any costs incurred and payable from the fund for corrective action taken pursuant to KRS 224.60-135(2) shall be recovered by the office from the petroleum storage tank owner or operator which released the petroleum or petroleum products into the environment.

(9) The liability of a petroleum storage tank owner or operator subject to a cost recovery under this section shall not exceed an amount equal to the entry level into the fund, the office's cost incurred in the cost recovery, and any penalties applied in accordance with KRS 224.60-155. This amount shall include any expenditures made by the petroleum storage tank owner or operator for the release into the environment from the petroleum storage tank that is the subject of the cost of recovery.

(10) The amount of costs determined pursuant to subsections (8) and (19) of this section shall be recoverable in a civil action. This subsection does not deprive a party of any defense the party may have.

(11) Money recovered by the office pursuant to this section shall be deposited in the ***appropriate account***~~[fund]~~.

(12) Upon motion and sufficient showing by any party, the court shall join to the action any person who may be liable for costs or expenditures recoverable pursuant to this section.

(13) (a) Any party found liable for any costs or expenditures recoverable under this section who establishes that only a portion of those costs or expenditures are attributable to their actions, shall pay only for that portion.

(b) If the trier of fact finds the evidence insufficient to establish each party's portion of costs or expenditures pursuant to subsection (12) of this section, the court shall apportion those costs or expenditures, to the extent practicable according to equitable principles among the defendants.

(c) The ***appropriate account***~~[fund]~~ shall pay any portion of the judgment in excess of the aggregate amount of costs or expenditures apportioned under paragraphs (a) and (b) of this subsection.

(14) (a) No indemnification, hold harmless, conveyance, or similar agreement shall be effective to transfer any liability for

costs recoverable under this section. This subsection shall not bar any agreement to insure, hold harmless, or indemnify a party to the agreement for any costs under KRS 224.60-105 to 224.60-160.

(b) The entry of judgment against any party to the action shall not bar any future action by the fund against any other person who is later discovered to be potentially liable for costs paid from the fund.

(c) Payment of any claim by the fund pursuant to KRS 224.60-105 to 224.60-160 shall be subject to the state acquiring by subrogation the rights of the claimant to recover those costs of corrective action for which it has compensated the claimant from the person responsible or liable for the release.

(15) This section shall not be construed as authorizing recovery for costs of corrective action resulting from any release authorized or permitted pursuant to state or federal law.

(16) The cabinet shall attempt, to the maximum extent practicable, to secure or obtain funds that may be available for corrective actions under federal laws. However, nothing in this subsection shall prevent the cabinet from expending any funds available under KRS 224.60-105 to 224.60-160 if such federal funds are determined to be unavailable.

(17) The fund shall not be used for corrective action, reimbursement, or third-party liability resulting from releases from petroleum storage tanks used exclusively for storage of fuel used in the operation of a commercial ship or vessel oil tanks used exclusively for storage of fuel used for the purposes of powering locomotives.

(18) (a) Any person filing a claim for reimbursement from the office shall, prior to filing the claim for reimbursement, ensure full payment of the claims of all vendors and subcontractors who have performed work or supplied materials related to corrective action at an underground storage tank facility, where labor or materials supplied by a vendor or subcontractor form a basis for at least part of the claim for reimbursement.

(b) A vendor or subcontractor may waive, in writing, his right to receive full payment before the person files the claim for reimbursement. Any vendor or subcontractor who waives, in writing, his right to full payment shall also waive, in writing, his right to take legal recourse against the office and the underground storage tank facility owner or operator for nonpayment from a prime contractor for work performed or materials supplied to the prime contractor during corrective action at an underground storage tank facility. Any vendor or subcontractor who waives, in writing, his right to full payment prior to the filing of the claim for reimbursement shall acknowledge in the written waiver that his, his heirs', successors', and assigns' sole recourse for the nonpayment of work performed or materials supplied to a prime contractor during corrective action at an underground storage tank facility is to proceed against the prime contractor for whom he performed the work or supplied materials. Any vendor or subcontractor who waives, in writing, his right to full payment prior to the filing of the claim for reimbursement shall release and discharge any liens filed as a result of work performed or materials provided at the underground storage tank facility. Subcontractor and vendor waivers must be made on standard forms furnished by the office. Their signatures must be notarized.

(c) Unless the provisions of paragraph (b) of this subsection apply, any person filing a claim for reimbursement from the office shall certify, by affidavit, on standard forms furnished by the office, that all vendors and subcontractors who have performed work or supplied materials related to corrective action at an underground storage tank facility, where labor and materials supplied by a vendor or subcontractor form a basis for at least part of the claim for reimbursement, have been paid in full as of the date of submission of the claim for reimbursement. A single affidavit may be made for each claim for reimbursement, provided, however, that the representations made in the affidavit shall be applied to each vendor or subcontractor individually, and, where false, shall be treated, as to each vendor or subcontractor, as a separate violation for the purpose of applying any criminal statute.

(d) Any person with responsibility for administering the office who believes, or has information, that an affidavit submitted pursuant to this subsection contains false or misleading information, or any person with responsibility for administering the office who believes or has information that an application for financial assistance or a claim for reimbursement contains false or misleading information, shall provide that information to the Commonwealth's attorney whose jurisdiction includes the county where the majority of the subject underground storage tank facility is located. That person may additionally provide the information to any other interested prosecutor with jurisdiction to prosecute crimes pertaining to an application for financial assistance or the claim for reimbursement.

(19) Any person who knowingly makes a false statement, representation, or certification in an application for reimbursement from the fund, or in any supporting documentation attached thereto, shall be responsible for and shall not be reimbursed for any amounts incurred based upon the false statement, representation, or certification. Any costs incurred and paid from the fund which are based on a false statement, representation, or certification in an application for reimbursement from the fund, or in any supporting documentation attached thereto, shall be recovered by the fund administrators from the person who asserted the false statement, representation, or certification.

Section 5. KRS 224.60-142 is amended to read as follows:

(1) To be eligible to participate in the fund, ***the owner of any petroleum storage tank containing motor fuels installed and placed in operation after July 15, 2002, shall register the petroleum storage tank with the cabinet as required by KRS 224.60-105 prior to applying for participation in the financial responsibility account.***

(2) The owner of any petroleum storage tank containing motor fuels currently existing, or removed from the ground after

January 1, 1974, shall register the petroleum storage tank containing motor fuels with the cabinet prior to applying to the fund, and shall register the petroleum storage tank containing motor fuels by July 15, *2004*[~~2002~~]. *Owners or operators may submit affidavits and applications, relevant to current petroleum storage tank accounts through July 15, 2004.*

Section 6. KRS 224.60-145 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, there is established a petroleum environmental assurance fee to be paid by dealers on each gallon of gasoline and special fuels received in this state.

(2) All deductions detailed in KRS 138.240(2), gasoline and special fuels sold for agricultural purposes, and special fuels sold exclusively to heat a personal residence are exempt from the fee. If a dealer has on file, pursuant to KRS Chapter 138, a statement supporting a claimed exemption, an additional statement shall not be required for claiming exemption from the fee.

(3) The fee shall be reported and paid to the Revenue Cabinet at the same time and in the same manner as is required for the reporting and payment of the gasoline and special fuels taxes as provided by law.

(4) The petroleum environmental assurance fee shall be set at[~~ a rate up to but not to exceed~~] one and four-tenths cent ($0.014) for each gallon. *Four-tenths of a cent ($0.004) per gallon shall be deposited in the financial responsibility account and one cent ($0.01) shall be deposited in the petroleum storage tank account.*

(5) The office *and the secretary of the Finance and Administration Cabinet shall review the unobligated balance of each account every three (3) months to determine if a surplus exists and report to the Legislative Research Commission on the unobligated balance in each account and any surplus. After a determination that a surplus exists, the surplus shall be transferred to the landfill cleanup fund created in Section 7 of this Act*[~~shall review the unobligated fund balance at least quarterly and report to the Revenue Cabinet the rate of the fee to be applied for the next quarter~~].

(6) All provisions of law related to the Revenue Cabinet's administration and enforcement of the gasoline and special fuels tax and all other powers generally conveyed to the Revenue Cabinet by the Kentucky Revised Statutes for the assessment and collection of taxes shall apply with regard to the fee levied by KRS 224.60-105 to 224.60-160.

(7) The Revenue Cabinet shall refund the fee imposed by KRS 224.60-145(1) to any person who paid the fee provided they are entitled to a refund of motor fuel tax under KRS 138.344 to KRS 138.355 and to any person who paid the fee on transactions exempted under KRS 224.60-145(2).

(8) Notwithstanding any other provisions of this Act to the contrary, the small operator assistance account and small operator tank removal account established under Section 2 of this Act shall continue in effect until July 15, 2004 and thereafter until all eligible claims related to tanks registered by that date are resolved, and sufficient money shall be allocated to and maintained in that account to assure prompt payment of all eligible claims, and to provide for removal of tanks for eligible owners and operators as directed by this chapter.

SECTION 7. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established in the State Treasury a fund entitled the "landfill cleanup fund." The fund shall receive moneys as provided in Section 6 of this Act and may receive other state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon warrant of the secretary of the Finance and Administration Cabinet. Moneys in the fund are appropriated to be used to locate, remediate, and close solid waste landfills that have not been closed pursuant to requirements by the Natural Resources and Environmental Protection Cabinet. Upon request by the secretary of the Natural Resources and Environmental Protection Cabinet, the Finance and Administration Cabinet may issue bonds for this purpose.

(2) The secretary of the Natural Resources and Environmental Protection Cabinet and the secretary of the Finance and Administration Cabinet shall review the unobligated balance in this fund every three (3) months to determine if a surplus exists and report to the Legislative Research Commission on the unobligated fund balance and any surplus. After a determination exists, the surplus shall be transferred to the road fund.

The Committee Substitute to **SB 193** is as follows:

SB 193, AN ACT relating to environmental cleanup and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.60-115 is amended to read as follows:

As used in KRS 224.60-120 to 224.60-150, unless the context otherwise requires:

(1) "Bodily injury and property damage" means only those actual economic losses to an individual or the individual's property resulting from bodily injuries and damages to property caused by a release into the environment from a petroleum storage tank. In this context, property damage includes damage to natural resources;

(2) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(3) "Claim" means any demand in writing for a certain sum;

(4) "Corrective action" means those actions necessary to protect human health and the environment in the event of a release from a petroleum storage tank. Corrective action includes initial responses taken pursuant to KRS 224.60-135, remedial actions to clean up contaminated groundwater, surface waters, or soil, actions to address residual effects after initial corrective action is taken, and actions taken to restore or replace potable water supplies. Corrective action also includes actions necessary to monitor, assess, and evaluate a release, as well as actions necessary to monitor, assess, and evaluate the effectiveness of remedial action after a release has occurred;

(5) "Dealer" means a person required to be licensed as a gasoline or special fuels dealer as defined in KRS 138.210(2);

(6) "Facility" means, with respect to any owner or operator, all petroleum storage tanks which are owned or operated by an owner or operator and are located on a single parcel of property or on any contiguous or adjacent property;

(7) "Federal regulations" means regulations for underground petroleum storage tanks promulgated by the United States Environmental Protection Agency pursuant to Subtitle I of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act;

(8) "Free product" means a regulated substance that is present as a non-aqueous phase liquid;

(9) "Fund" means the petroleum storage tank environmental assurance fund ***and its subaccounts, the financial responsibility account and the petroleum storage tank account*** established pursuant to KRS 224.60-140;

(10) "Gasoline" means gasoline as defined in KRS 138.210(4);

(11) "Motor fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any grade of gasohol, that is typically used in the operation of a motor engine, jet fuel, and any petroleum or petroleum-based substance typically used in the operation of a motor vehicle, including used motor vehicle lubricants and oils;

(12) "Occurrence" means a release, or releases, of an accidental nature, requiring corrective action, from a petroleum storage tank or tanks located at the same facility, due to continuous or repeated exposure to conditions. An additional release or releases at the same facility in which the area requiring remedial action is separate from a previous remediation area or areas shall be considered a separate occurrence;

(13) "Office" means the Office of Petroleum Storage Tank Environmental Assurance Fund;

(14) "Person" means an individual, trust, firm, joint stock company, federal agency, corporation, the state, a municipality, commission, or political subdivision of the state. The term includes a consortium, a joint venture, the United States government, or a commercial entity;

(15) "Petroleum" and "petroleum products" means crude oil, or any fraction thereof, which is liquid at standard conditions of temperature and pressure, which means at sixty (60) degrees Fahrenheit and 14.7 pounds per square inch absolute. The term includes motor gasoline, gasohol, other alcohol-blended fuels, diesel fuel, heating oil, special fuels, lubricants, and used oil;

(16) "Petroleum storage tank" means an underground storage tank, as defined by KRS 224.60-100, which contains petroleum or petroleum products but, for the purpose of participation or eligibility for the fund, shall only include tanks containing motor fuels and shall not include petroleum storage tanks used exclusively for storage of fuel used in the operation of a commercial ship or vessel or tanks used exclusively for storage of fuel used for the purposes of powering locomotives or tanks owned by a federal agency or the United States government;

(17) "Petroleum storage tank operator" means any person in control of, or having responsibility for, the daily operation of a petroleum storage tank;

(18) "Petroleum storage tank owner" means the person who owns a petroleum storage tank, except that petroleum storage tank owner does not include any person who, without participation in the management of a petroleum storage tank, holds indicia of ownership primarily to protect a security interest in the tank;

(19) "Received" means the same as defined in KRS 138.210(5);

(20) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a petroleum storage tank into groundwater, surface water, or surface or subsurface soils. The term shall not include releases that are permitted or authorized by the state or federal law;

(21) "Special fuels" means special fuels as defined in KRS 138.210(4); and

(22) "Third party" means a person other than the owner or operator of a facility, or the agents or employees of the owner or operator, who sustains bodily injury or property damage as a result of a release from that facility.

Section 2. KRS 224.60-130 is amended to read as follows:

(1) There is created within the Public Protection and Regulation Cabinet, Office of the Secretary, the Office of Petroleum Storage Tank Environmental Assurance Fund.

(2) The Office of Petroleum Storage Tank Environmental Assurance Fund shall:

(a) Establish by administrative regulation the policy, guidelines, and procedures to administer the ***financial responsibility and petroleum storage tank accounts of the*** petroleum storage tank environmental assurance fund. In adopting administrative regulations to carry out this section, the office may distinguish between types, classes, and ages of petroleum storage tanks. The office may establish a range of amounts to be paid from the fund, or may base payments on methods such as pay for performance, task order, or firm fixed pricing, which are designed to provide incentives for contractors to more tightly control corrective action costs, and shall establish criteria to be met by persons who contract to perform corrective action to be eligible for reimbursement from the fund. The criteria may include the certification of individuals, partnerships, and companies. Criteria shall be established to certify laboratories that contract to perform analytical testing related to the underground storage tank program.[~~The criteria for certification of laboratories shall be established no later than January 1, 1999. After April 1, 1999,~~] Owners and operators shall have all required analytical testing performed by a certified laboratory to be eligible for fund participation. Persons who contract with petroleum storage tank owners or operators shall not be paid more than the amount authorized by the office for reimbursement from the fund for the performance of corrective action. At a minimum, the office shall promulgate administrative regulations that will insure an unobligated balance in the fund adequate to meet financial assurance requirements and corrective action requirements of KRS 224.60-135(2) and (4). If the unobligated balance in the fund is not adequate to meet the requirements of this paragraph, the office shall obligate funds necessary to meet these requirements;

(b) Establish by administrative regulation the criteria to be met to be eligible to participate in the ***financial responsibility and petroleum storage tank accounts***[~~fund~~] and ***to*** receive reimbursement from ***these accounts***[~~the fund~~]. The office may establish eligibility criteria ***for the petroleum storage tank account*** based upon the financial ability of the petroleum storage tank owner or operator. ***Owners or operators seeking coverage under the petroleum storage tank account shall file for eligibility and for financial assistance with the office on or before January 15, 2004.*** To insure cost effectiveness, the office shall promulgate administrative regulations specifying the circumstances under which prior approval of corrective action costs shall be required for those costs to be eligible for reimbursement from the fund. In promulgating administrative regulations to carry out this section, the office may distinguish between types, classes, and ages of petroleum storage tanks and the degree of compliance of the facility with any administrative regulations of the cabinet promulgated pursuant to KRS 224.60-105 or applicable federal regulations;

(c) Establish a financial responsibility account within the fund which may be used by petroleum storage tank owners and operators to demonstrate financial responsibility as required by administrative regulations of the cabinet or the federal ***regulations applicable to***[~~government for~~] petroleum storage tanks, consistent with the intent of the General Assembly as set forth in KRS 224.60-120(5). ***The account shall receive four-tenths of one cent ($0.004) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145***[~~The amount to be maintained in this account shall be established by the office~~]. To be eligible to use this account to demonstrate compliance with financial responsibility requirements of the cabinet or federal regulations, or to receive reimbursement from this account for taking corrective action and for compensating third parties for bodily injury and property damage, the petroleum storage tank owner or operator shall meet the eligibility requirements established by administrative regulation promulgated by the office;

(d) Establish a small operator assistance account within the fund which may be used by the office to make or participate in the making of loans, to purchase or participate in the purchase of the loans, which purchase may be from eligible lenders, or to insure loans made by eligible lenders;

(e) Establish a petroleum storage tank account within the fund to be used to pay the costs of corrective action due to a release from a petroleum storage tank not eligible for reimbursement from the financial responsibility account. ***Reimbursements of corrective action projects performed under the petroleum storage tank account shall be carried out on or before July 15, 2009. Any corrective action costs incurred after this date shall not be eligible for reimbursement under the petroleum storage tank account. The account shall receive one cent ($0.01) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145.*** This account shall not be used to compensate third parties for bodily injury and property damage. ***Within three (3) months after the effective date of this Act, the office shall develop a plan to address the payment of claims and completion of corrective action at facilities eligible for reimbursement from this account.*** The office shall establish a ranking system to be used for the distribution of amounts from this account for the purpose of corrective action. In promulgating administrative regulations to carry out this section, the office shall consider the financial ability of the petroleum storage tank owner or operator to perform corrective action and the extent of damage caused by a release into the environment from a petroleum storage tank;

(f) Hear complaints brought before the office regarding the payment of claims from the fund in accordance with KRS Chapter 13B;

(g) Establish and maintain necessary offices within this state, appoint employees and agents as necessary, and prescribe their duties and compensation;

(h) Employ, in accordance with the procedures found in KRS 45A.690 to 45A.725 for awarding personal service contracts, a qualified actuary to perform an actuarial study, ***as directed by the office, for determining an appropriate reserve in the financial responsibility account and the petroleum storage tank account sufficient to satisfy the obligations in each account for all eligible facilities and to satisfy future liabilities and expenses necessary to operate each account***[~~no less than every two (2) years, that recommends to the office an actuarially~~

~~sound entry level to the fund prior to two (2) years from April 9, 1990~~]. The office shall, by administrative regulation, set the entry level for participation in the fund;

(i) Authorize expenditures from the fund to carry out the purpose of KRS 224.60-105 to 224.60-160, including reasonable costs of administering the fund, the procurement of legal services, and the procurement of analytical testing services when necessary to confirm the accuracy of analytical testing results obtained by a petroleum storage tank owner or operator*. The expenditures shall be paid from the appropriate account*;

(j) Establish a small operators' tank removal account within the fund to reimburse the reasonable cost of tank system removal for small owners and operators. The account shall not be used when an owner or operator is removing the tank with the intention of replacing or upgrading the tank. In promulgating administrative regulations to carry out this paragraph, the office may distinguish among owners and operators based on income, number of tanks, number of facilities, and types and classes of tanks;

(k) Establish by administrative regulation the policy, guidelines, and procedures to perform financial audits of any petroleum storage tank owner or operator receiving reimbursement from the fund or any entity contracting or subcontracting to provide corrective action services for facilities eligible for fund reimbursement. Financial audits shall be limited to those files, records, computer records, receipts, and other documents related to corrective action performed at a facility where the costs of corrective action have been reimbursed by the fund. Files, records, computer records, receipts, and other documents related to corrective action reimbursed by the fund shall be subject to a financial audit for a period of three (3) years after the date of final reimbursement from the fund. Results of the audits shall be protected from disclosure as allowed by KRS 61.878(1)(c). Financial auditing services may be contracted for or personnel may be employed as needed to implement the requirements of this paragraph;

(l) Be authorized to enter and inspect any facility intending to seek reimbursement for the cost of corrective action to determine the reasonableness and necessity of the cost of corrective action. The office may collect soil or water samples or require storage tank owners or operators to split samples with the office for analytical testing. Refusal to allow entry and inspection of a facility or refusal to allow the office to collect or split samples shall make the facility ineligible for fund participation;[~~ and~~]

(m) Have[~~, after April 1, 1999,~~] assurance fund auditors on site at all tank system removals. Failure to comply with this provision shall make the facility ineligible for fund participation. A petroleum storage tank owner or operator may request through certified mail that the office schedule an assurance fund auditor to be present at an upcoming tank removal. If the request is made at least two (2) weeks before the time for the removal and an auditor fails to be present at the time scheduled, the tank removal may proceed without making the facility ineligible for fund participation unless the owner is notified by the assurance fund no later than ten (10) days prior to the proposed date that an auditor is not available on the proposed date, in which event a representative of the assurance fund shall contact the operator and schedule a new date. If no auditor is present at the rescheduled date, the removal may then proceed without penalty*; and*

(n) Establish that the deadline for submission of final reimbursement requests under the petroleum storage tank account is two (2) years after receipt of a no further action letter or by July 15, 2010, whichever is earlier. Claims received after July 15, 2010, are not eligible for reimbursement.

The funding and operations of the small operator assistance account and the small operator's tank removal account shall end on July 15, 2004.

(3) The office may advise the cabinet on the promulgation of administrative regulations concerning petroleum storage tanks.

(4) The office may sue and be sued in its own name.

Section 3. KRS 224.60-137 is amended to read as follows:

(1) *It is the intent of the General Assembly, when funds are available, that the University of Kentucky update the study completed in July, 1995, and recommend amendments to standards for levels of petroleum contamination, including lead and other additives, requiring corrective action to adequately protect human health, safety, and the environment established in administrative regulations promulgated by the cabinet, based on new information or changes in federal law*[~~The office shall have a study performed to identify appropriate standards for corrective action for a release into the environment from a petroleum storage tank. The study shall address, but not be limited to, standards for levels of petroleum contamination, including lead, requiring corrective action to adequately protect human health, safety, and the environment consistent with accepted scientific and technical principles and federal law. The standards shall take into account distances to environmentally sensitive features, including surface waters, wetlands, nature preserves, protected ecological areas, springs and wells used for domestic water supply, and well head protection areas. The office shall contract with a person or persons to perform the study qualified in the areas of engineering, hydrogeology, geology, toxicology, epidemiology, biology, public health, chemistry, and risk assessment. The office shall provide for the October 18, 1993 study performed by the University of Kentucky to be completed within one hundred twenty (120) days of April 11, 1994, to comply with the requirements of this subsection~~].

(2) The office shall contract with the University of Kentucky *when funds are available*[~~, or another person or persons having the qualifications established in subsection (1) of this section, to recommend revisions or amendments to the study based~~

~~upon new information or changes in federal law, and to review and comment to the office upon the consistency with the completed study of administrative regulations proposed by the cabinet pursuant to subsection (3) of this section. The person contracted with to recommend revisions or amendments to the study shall identify in writing any inconsistencies of the draft administrative regulations required by subsection (4) of this section with the completed study. The cabinet shall comment to the office on the completed study report and any proposed revisions or amendments to the study. The office shall approve the completed study report and any revisions or amendments to the study~~].

(3) The cabinet shall, by administrative regulation, ***adopt***[~~establish~~] standards for corrective action for a release into the environment from a petroleum storage tank. The administrative regulations shall adequately protect human health, safety, and the environment, and ***may consider***[~~shall incorporate~~] the study ***and any revisions or amendments to it*** performed for the office, except as necessary to comply with federal law[~~ or as provided in subsection (4) of this section~~].

(4)[~~ Within ninety (90) days of the receipt of the completed study report, the cabinet shall prepare draft administrative regulations for submission to and review by the person performing the study. The comments required pursuant to subsection (2) of this section shall be filed with the office and the cabinet within sixty (60) days of receipt of the draft administrative regulations by the office. If any inconsistencies are identified, the person conducting the review and the cabinet shall confer to resolve the inconsistencies, and report to the office within sixty (60) days. If the person conducting the review and the cabinet are unable to resolve the inconsistencies, the cabinet and the office shall appoint an independent peer review group to resolve the inconsistencies and recommend amendments to the draft administrative regulations within sixty (60) days of appointment. The peer review group shall be appointed by agreement of the cabinet and the office. The cabinet shall amend the draft administrative regulations to incorporate the amendments recommended by the peer review group and file the administrative regulations with the Legislative Research Commission within sixty (60) days of receipt. The administrative regulations shall be promulgated pursuant to the provisions of KRS Chapter 13A.~~

~~(5)~~] ***Within ninety (90) days of the effective date of this Act, the cabinet shall develop a final cleanup plan addressing the completion of corrective action at facilities eligible for reimbursement from the fund. The final cleanup plan shall include an inventory of facilities eligible for reimbursement from the financial responsibility account and the petroleum storage tank account and the current status of each facility within the corrective action process. The cabinet shall update the inventory and the status of the facilities and submit the information quarterly to the Legislative Research Commission***[~~Notwithstanding any provisions of law or KRS Chapter 13A to the contrary, the emergency administrative regulations filed by the cabinet in February 1994 shall remain in effect until the administrative regulations required by subsection (3) of this section are adopted and effective pursuant to the provisions of KRS 13A.330~~].

Section 4. KRS 224.60-140 is amended to read as follows:

(1) There is hereby created the petroleum storage tank environmental assurance fund. The fund ***shall consist of a financial responsibility account and a petroleum storage tank account. Each account*** shall be maintained as a separate and distinct interest-bearing account. ***Interest credited to an account shall be retained in that account.*** All of the following amounts shall be deposited in the fund:

(a) ***Four-tenths of one cent ($0.004) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145 to the financial responsibility account***[~~Any interest earned upon money deposited in the fund~~];

(b) ***One cent ($0.01) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145 to the petroleum storage tank account;***

(c) Money appropriated by the General Assembly for deposit in ***each account***[~~the fund~~];

(d)[~~(c)~~] Any money recovered by the fund pursuant to this section ***shall be deposited in the appropriate account***; and

(e)[~~(d)~~] Any money collected in the form of penalties levied pursuant to KRS 224.60-155 ***shall be deposited to the appropriate account***.

(2) Money in the ***fund, financial responsibility account and the petroleum storage tank account shall***[~~fund may~~] be used by the office for the following purposes:

(a) To reimburse petroleum storage tank owners or operators for the costs, expenses, and other obligations incurred for corrective action ***required by the cabinet to be undertaken*** as the result of a release into the environment from a petroleum storage tank. Reimbursement shall be limited to only those costs, expenses, and other obligations incurred to comply with corrective action requirements established ***in law or administrative regulation*** by the cabinet. Additional costs related to compliance with a local program operating under KRS 224.60-105(4) shall be neither reimbursable by the fund nor imposed on the owner or operator. Reimbursement shall not include the costs related to the removal, or actions incidental to the removal, of a tank system except as authorized under KRS 224.60-130(2)(j);

(b) For payment of or reimbursement for third-party claims for bodily injury and property damage***, related to a facility eligible for participation in the financial responsibility account,*** which are asserted against a petroleum storage tank owner or operator as a result of a release into the environment from a petroleum storage tank;

(c) To pay the reasonable***, prorated*** costs incurred by the office in administering ***each account***[~~ the fund~~]; ***and***

(d)[~~ Payment to the cabinet of the costs of implementing the tank registration required by KRS 224.60-142; and~~

~~(e)~~] ***The cost*** to operate the small operators' assistance account pursuant to KRS 224.60-130(2)(d), the small operators' tank removal account pursuant to KRS 224.60-130(2)(j), to perform or contract for the performance of financial audits conducted under KRS 224.60-130(2)(k), and to employ sufficient assurance fund auditors to carry out the provisions of KRS 224.60-130 and to set forth their duties***. These costs shall be prorated to each account***.

(3) The use of the fund shall not exceed one million dollars ($1,000,000) per occurrence for corrective action and one million dollars ($1,000,000) per occurrence for compensating third parties for bodily injury and property damage.

(4) Money in the fund may be used by the cabinet for costs incurred by the cabinet for corrective action taken pursuant to KRS 224.60-135(2) and (4).

(5) The fund shall be used to guarantee payment of reasonable costs and expenses to a contractor performing corrective action under contract with a petroleum storage tank owner or operator subject to entry level amounts payable by the petroleum storage tank owner or operator. Money in the fund shall be obligated to secure the guarantee.

(6) A petroleum storage tank owner or operator may apply to the office for reimbursement from the fund of costs to perform corrective action, except that the petroleum storage tank owner or operator shall be responsible for and shall not be reimbursed for an amount equal to the entry level into the fund as set pursuant to administrative regulation of the office.

(7) The office or its designated agent shall issue all decisions made on claims filed pursuant to this section in writing, with notification to all appropriate parties, within ninety (90) days after submission of the claim, unless all parties to the claim agree in writing to an extension of time. ***The office shall by phone or facsimile transmission immediately notify the claim applicant and its consultant, if applicable, when the claim is determined to be deficient. The notification shall provide sufficient information to allow the applicant and its consultant, if applicable, to begin to correct the deficiency. The office shall then notify the applicant and its consultant, if applicable, by certified mail of the deficiency. The notice shall indicate how many days remain in the ninety (90) day review period from the time of mailing. When the office receives information that corrects the deficiency, the office shall complete the review of the claim within the time remaining in the ninety (90) day review period, but not to exceed forty-five (45) days.***

(8) Except as provided in subsection (9), any costs incurred and payable from the fund for corrective action taken pursuant to KRS 224.60-135(2) shall be recovered by the office from the petroleum storage tank owner or operator which released the petroleum or petroleum products into the environment.

(9) The liability of a petroleum storage tank owner or operator subject to a cost recovery under this section shall not exceed an amount equal to the entry level into the fund, the office's cost incurred in the cost recovery, and any penalties applied in accordance with KRS 224.60-155. This amount shall include any expenditures made by the petroleum storage tank owner or operator for the release into the environment from the petroleum storage tank that is the subject of the cost of recovery.

(10) The amount of costs determined pursuant to subsections (8) and (19) of this section shall be recoverable in a civil action. This subsection does not deprive a party of any defense the party may have.

(11) Money recovered by the office pursuant to this section shall be deposited in the ***appropriate account***[~~fund~~].

(12) Upon motion and sufficient showing by any party, the court shall join to the action any person who may be liable for costs or expenditures recoverable pursuant to this section.

(13) (a) Any party found liable for any costs or expenditures recoverable under this section who establishes that only a portion of those costs or expenditures are attributable to their actions, shall pay only for that portion.

(b) If the trier of fact finds the evidence insufficient to establish each party's portion of costs or expenditures pursuant to subsection (12) of this section, the court shall apportion those costs or expenditures, to the extent practicable according to equitable principles among the defendants.

(c) The ***appropriate account***[~~fund~~] shall pay any portion of the judgment in excess of the aggregate amount of costs or expenditures apportioned under paragraphs (a) and (b) of this subsection.

(14) (a) No indemnification, hold harmless, conveyance, or similar agreement shall be effective to transfer any liability for costs recoverable under this section. This subsection shall not bar any agreement to insure, hold harmless, or indemnify a party to the agreement for any costs under KRS 224.60-105 to 224.60-160.

(b) The entry of judgment against any party to the action shall not bar any future action by the fund against any other person who is later discovered to be potentially liable for costs paid from the fund.

(c) Payment of any claim by the fund pursuant to KRS 224.60-105 to 224.60-160 shall be subject to the state acquiring by subrogation the rights of the claimant to recover those costs of corrective action for which it has compensated the claimant from the person responsible or liable for the release.

(15) This section shall not be construed as authorizing recovery for costs of corrective action resulting from any release authorized or permitted pursuant to state or federal law.

(16) The cabinet shall attempt, to the maximum extent practicable, to secure or obtain funds that may be available for corrective actions under federal laws. However, nothing in this subsection shall prevent the cabinet from expending any funds available under KRS 224.60-105 to 224.60-160 if such federal funds are determined to be unavailable.

(17) The fund shall not be used for corrective action, reimbursement, or third-party liability resulting from releases from petroleum storage tanks used exclusively for storage of fuel used in the operation of a commercial ship or vessel oil tanks

used exclusively for storage of fuel used for the purposes of powering locomotives.

(18) (a) Any person filing a claim for reimbursement from the office shall, prior to filing the claim for reimbursement, ensure full payment of the claims of all vendors and subcontractors who have performed work or supplied materials related to corrective action at an underground storage tank facility, where labor or materials supplied by a vendor or subcontractor form a basis for at least part of the claim for reimbursement.

(b) A vendor or subcontractor may waive, in writing, his right to receive full payment before the person files the claim for reimbursement. Any vendor or subcontractor who waives, in writing, his right to full payment shall also waive, in writing, his right to take legal recourse against the office and the underground storage tank facility owner or operator for nonpayment from a prime contractor for work performed or materials supplied to the prime contractor during corrective action at an underground storage tank facility. Any vendor or subcontractor who waives, in writing, his right to full payment prior to the filing of the claim for reimbursement shall acknowledge in the written waiver that his, his heirs', successors', and assigns' sole recourse for the nonpayment of work performed or materials supplied to a prime contractor during corrective action at an underground storage tank facility is to proceed against the prime contractor for whom he performed the work or supplied materials. Any vendor or subcontractor who waives, in writing, his right to full payment prior to the filing of the claim for reimbursement shall release and discharge any liens filed as a result of work performed or materials provided at the underground storage tank facility. Subcontractor and vendor waivers must be made on standard forms furnished by the office. Their signatures must be notarized.

(c) Unless the provisions of paragraph (b) of this subsection apply, any person filing a claim for reimbursement from the office shall certify, by affidavit, on standard forms furnished by the office, that all vendors and subcontractors who have performed work or supplied materials related to corrective action at an underground storage tank facility, where labor and materials supplied by a vendor or subcontractor form a basis for at least part of the claim for reimbursement, have been paid in full as of the date of submission of the claim for reimbursement. A single affidavit may be made for each claim for reimbursement, provided, however, that the representations made in the affidavit shall be applied to each vendor or subcontractor individually, and, where false, shall be treated, as to each vendor or subcontractor, as a separate violation for the purpose of applying any criminal statute.

(d) Any person with responsibility for administering the office who believes, or has information, that an affidavit submitted pursuant to this subsection contains false or misleading information, or any person with responsibility for administering the office who believes or has information that an application for financial assistance or a claim for reimbursement contains false or misleading information, shall provide that information to the Commonwealth's attorney whose jurisdiction includes the county where the majority of the subject underground storage tank facility is located. That person may additionally provide the information to any other interested prosecutor with jurisdiction to prosecute crimes pertaining to an application for financial assistance or the claim for reimbursement.

(19) Any person who knowingly makes a false statement, representation, or certification in an application for reimbursement from the fund, or in any supporting documentation attached thereto, shall be responsible for and shall not be reimbursed for any amounts incurred based upon the false statement, representation, or certification. Any costs incurred and paid from the fund which are based on a false statement, representation, or certification in an application for reimbursement from the fund, or in any supporting documentation attached thereto, shall be recovered by the fund administrators from the person who asserted the false statement, representation, or certification.

Section 5. KRS 224.60-142 is amended to read as follows:

(1) To be eligible to participate in the fund, ***the owner of any petroleum storage tank containing motor fuels installed and placed in operation after July 15, 2002, shall register the petroleum storage tank with the cabinet as required by KRS 224.60-105 prior to applying for participation in the financial responsibility account.***

(2) The owner of any petroleum storage tank containing motor fuels currently existing, or removed from the ground after January 1, 1974, shall register the petroleum storage tank containing motor fuels with the cabinet prior to applying to the fund, and shall register the petroleum storage tank containing motor fuels by July 15, ***2004***~~[2002]~~. ***Owners or operators may submit affidavits and applications, relevant to current petroleum storage tank accounts through July 15, 2004.***

Section 6. KRS 224.60-145 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, there is established a petroleum environmental assurance fee to be paid by dealers on each gallon of gasoline and special fuels received in this state.

(2) All deductions detailed in KRS 138.240(2), gasoline and special fuels sold for agricultural purposes, and special fuels sold exclusively to heat a personal residence are exempt from the fee. If a dealer has on file, pursuant to KRS Chapter 138, a statement supporting a claimed exemption, an additional statement shall not be required for claiming exemption from the fee.

(3) The fee shall be reported and paid to the Revenue Cabinet at the same time and in the same manner as is required for the reporting and payment of the gasoline and special fuels taxes as provided by law.

(4) The petroleum environmental assurance fee shall be set at~~[a rate up to but not to exceed]~~ one and four-tenths cent ($0.014) for each gallon. ***Four-tenths of a cent ($0.004) per gallon shall be deposited in the financial responsibility***

account and one cent ($0.01) shall be deposited in the petroleum storage tank account.

(5) The office *and the secretary of the Finance and Administration Cabinet shall review the unobligated balance of each account every three (3) months to determine if a surplus exists and report to the Legislative Research Commission on the unobligated balance in each account and any surplus. After a determination that a surplus exists, the surplus shall be transferred to the road fund*[~~shall review the unobligated fund balance at least quarterly and report to the Revenue Cabinet the rate of the fee to be applied for the next quarter~~].

(6) All provisions of law related to the Revenue Cabinet's administration and enforcement of the gasoline and special fuels tax and all other powers generally conveyed to the Revenue Cabinet by the Kentucky Revised Statutes for the assessment and collection of taxes shall apply with regard to the fee levied by KRS 224.60-105 to 224.60-160.

(7) The Revenue Cabinet shall refund the fee imposed by KRS 224.60-145(1) to any person who paid the fee provided they are entitled to a refund of motor fuel tax under KRS 138.344 to KRS 138.355 and to any person who paid the fee on transactions exempted under KRS 224.60-145(2).

(8) Notwithstanding any other provisions of this Act to the contrary, the small operator assistance account and small operator tank removal account established under Section 2 of this Act shall continue in effect until July 15, 2004 and thereafter until all eligible claims related to tanks registered by that date are resolved, and sufficient money shall be allocated to and maintained in that account to assure prompt payment of all eligible claims, and to provide for removal of tanks for eligible owners and operators as directed by this chapter.

SECTION 7. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO READ AS FOLLOWS:

As used in Sections 7 to 10 of this Act, unless context otherwise requires:

(1) "Board" means the board of trustees of an industrial taxing district;

(2) "District" means an industrial taxing district; and

(3) "Governmental services" means services to include fire protection, solid waste management, water, electric, sewer, telecommunications, and other services as may be specified by the fiscal court of the county in which the district is located.

SECTION 8. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO READ AS FOLLOWS:

A portion of territory in a county may be organized into a district for the purpose of levying taxes to pay for the establishment, operation, and maintenance of the level of governmental services provided to the district that exceeds the level of services provided to the other territory of the county.

SECTION 9. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO READ AS FOLLOWS:

(1) Districts shall be organized under the procedures of Section 8 of this Act.

(2) A district created under Section 8 of this Act shall constitute a taxing district within the meaning of Section 157 of the Constitution of Kentucky.

(3) A special ad valorem tax and an occupational license tax may be imposed for the establishment, maintenance, and operation of the governmental services provided to the district.

  (a) The ad valorem tax levied shall not exceed ten cents ($0.10) per one hundred dollars ($100) of the assessed valuation of all property in the district.

  (b) The occupational license tax may be assessed after the approval of the fiscal court of the county in which the district is located under the provisions of KRS 68.178, 68.180, 68.185, 68.190, 68.195, 68.197, 68.198, 68.200 and KRS 68.202, as may be amended from time to time.

(4) All special ad valorem taxes and occupational license taxes authorized by Sections 7 to 10, 11, and 12 of this Act shall be collected in the same manner as are other county ad valorem taxes and occupational license taxes in each county affected and shall be turned over to the board, or to the fiscal court if there is no board. The special ad valorem tax shall be in addition to all other ad valorem taxes.

SECTION 10. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO READ AS FOLLOWS:

(1) A district shall be administered by the fiscal court of the county creating it, which shall control and manage the affairs of the district. The fiscal court may, by a majority vote of its members, establish a board of trustees to control and manage the affairs of the district.

(2) The board of trustees created under subsection (1) of this section shall operate in accordance with the following:

  (a) The term of office of each trustee shall be four (4) years except as specified. The board shall consist of four (4) members who shall be appointed by the county judge/executive, with the approval of the fiscal court. Initial appointments shall be for terms of one (1), two (2), three (3), and four (4) years, as designated by the county judge/executive. Thereafter, each successor shall be appointed for a term of four (4) years. No more than three (3) members of the board shall be members of the same political party.

  (b) The board shall elect its chairman from among its members. The board may appoint a secretary, an executive director, and other officials and employees who need not be members of the board. Members of the board shall not receive compensation for their services, but shall be reimbursed for their actual expenses incurred in the

performance of their duties. A quorum for the transacting of the business of the board shall consist of three (3) members.

(c) A member of the board may be removed from office as provided by KRS 65.007.

Section 11. KRS 65.180 is amended to read as follows:

As used in KRS 65.182 to 65.190, unless the context otherwise requires, the word "taxing district" shall mean, and the provisions of KRS 65.182 to 65.190 shall apply to, any special district authorized by statute to levy ad valorem taxes within the meaning of Section 157 of the Constitution of Kentucky ***or to levy ad valorem taxes under the provisions of Section 8 of this Act*** and governed by the following statutes: ***Section 12 of this Act,*** KRS 75.010 to 75.260, 107.310 to 107.500, 108.080 to 108.180, 109.115 to 109.190, 173.450 to 173.650, 173.710 to 173.800, 179.700 to 179.990, 212.720 to 212.760, 216.310 to 216.360, 266.010 to 266.990, and 268.010 to 268.990.

Section 12. KRS 65.182 is amended to read as follows:

Except as otherwise provided by state law, the sole methods of creating a taxing district shall be in accordance with the following:

(1) ***(a)*** Persons desiring to form a taxing district shall present a petition to the fiscal court clerk and to each member of the fiscal court, meeting the criteria of KRS 65.184, and signed by a number of registered voters equal to or greater than twenty-five percent (25%) of an average of the voters living in the proposed taxing district and voting in the last four (4) general elections. At time of its submission to fiscal court, each petition shall be accompanied by a plan of service, showing such of the following as may be germane to the purposes for which the taxing district is being formed:

1.[~~(a)~~] The statutory authority under which the district is created and under which the taxing district will operate;

2.[~~(b)~~] Demographic characteristics of the area including but not limited to population, density, projected growth, and assessed valuation;

3.[~~(c)~~] A description of the service area including but not limited to the population to be served, a metes and bounds description of the area of the proposed taxing district, the anticipated date of beginning service, the nature and extent of the proposed service, the projected effect of providing service on the social and economic growth of the area, and projected growth in service demand or need;

4.[~~(d)~~] A three (3) year projection of cost versus revenue;

5.[~~(e)~~] Justification for formation of the taxing district including but not limited to the location of nearby governmental and nongovernmental providers of like services; and

6.[~~(f)~~] Any additional information, such as land use plans, existing land uses, drainage patterns, health problems, and other similar analyses which bear on the necessity and means of providing the proposed service.

(b) A majority of the members of a fiscal court may vote to form a taxing district set forth in a plan of service that shall contain those items set forth in paragraph (a)1. to 6. of this subsection as may be germane to the purposes for which the taxing district is being formed.

(2) The fiscal court clerk shall notify all planning commissions, cities, and area development districts within whose jurisdiction the proposed service area is located and any state agencies required by law to be notified of the proposal for the creation of the taxing district.

(3) The fiscal court clerk shall schedule a hearing on the proposal for no earlier than thirty (30) nor later than ninety (90) days following receipt of the petition, charter, and plan of service, and shall, in accordance with the provisions of KRS Chapter 424, publish notice of the time and place of the public hearing and an accurate map of the area or a description in layman's terms reasonably identifying the area.

(4) At the public hearing, the fiscal court shall take testimony of interested parties and solicit the recommendations of any planning commission, city, area development district, or state agency meeting the criteria of subsection (2) of this section.

(5) The fiscal court may extend the hearing, from time-to-time, for ninety (90) days from the date of the initial hearing and shall render a decision within thirty (30) days of the final adjournment of the hearing.

(6) Following the hearing, the fiscal court shall set forth its written findings of fact and shall approve or disapprove the formation of the taxing district to provide service as described in the plan of service and to exercise the powers granted by the specific statutes that apply to the taxing district being formed.

(7) The creation of a taxing district shall be of legal effect only upon the adoption of an ordinance, in accordance with the provisions of KRS 67.075 and 67.077, creating the taxing district, and compliance with the requirements of KRS 65.005.

(8) A certified copy of the ordinance creating the taxing district shall be filed with the county clerk who shall add the levy to the tax bills of the county. For taxing purposes, the effective date of the tax levy shall be January 1 of the year following the certification of the creation of the taxing district.

(9) Nothing in this section shall be construed to enlarge upon or to restrict the powers granted a taxing district under the taxing district's specific authorizing statutes.

(10) In a county which does not contain a city of the first class, the fiscal court may adopt the procedures of KRS 65.192 to create a fire protection district or a volunteer fire department district, but only those qualified voters who live within the boundaries of the proposed district shall vote on the question of whether it shall be established.

The Committee Amendment No. 1 Title to **SB 193** is as follows:

SB 193, Amend the title to read as follows: "AN ACT relating to the financing of governmental services.".

The Committee on State Government reported **SB 33** with Committee Substitute and Committee Amendment attached thereto, **SB 156, SB 267, SB 271** with Committee Substitute attached thereto, and **SB 280** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 33, AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.950 is amended to read as follows:

As used in KRS 6.955 to 6.975, unless the context otherwise requires:

(1) "Fiscal note" means a realistic statement of the estimated effect on expenditures or revenue of local government in implementing or complying with any proposed act of the General Assembly whether filed in regular session or prefiled during the interim,~~[regulation,]~~ order, or administrative law.

(2) "Local government" means cities, counties or urban-county governments.

(3) "State mandate" means any state constitutional, legislative, or executive law or order which requires any local government to establish, expand, or modify its activities, programs, or structure in such a way as to affect expenditures from local revenues.

Section 2. KRS 6.955 is amended to read as follows:

(1) No bill or resolution which relates to any aspect of local government or any service provided thereby shall be voted on by either chamber of the General Assembly unless a fiscal note has been prepared and attached to the bill pursuant to KRS 6.960, except that, if in the chamber in which the bill is being considered, two-thirds (2/3) of the members elected vote to waive the fiscal note requirement, no note shall be required. The fiscal note waiver shall be certified by the clerk of the chamber in which the bill is being considered, and such certification shall be attached to the bill. Although waived in one chamber, a fiscal note shall be required when the bill goes to the other chamber unless a majority of the members elected to such chamber vote to waive the fiscal note requirement.

(2) ***An***~~[No]~~ executive~~[regulation or]~~ order which relates to any aspect of local government or any service provided thereby shall ***not*** be~~[promulgated or]~~ issued unless a fiscal note has been prepared and made a part of the~~[regulation or]~~ order pursuant to KRS 6.960.

Section 3. KRS 6.960 is amended to read as follows:

(1) The director of the Legislative Research Commission shall have the fiscal note prepared by the Legislative Research Commission or by other departments or agencies of state government for any bill introduced before the General Assembly which relates to any aspect of local government or any service provided thereby. Departments or agencies of state government so requested by the director shall comply with the request within seven (7) working days of receipt. The fiscal note shall be filed with the clerk in the chamber of the General Assembly in which the bill was introduced and attached to each copy of the bill.

(2) The secretary of finance shall have the fiscal note prepared by the Finance and Administration Cabinet or by other departments or agencies of state government for any~~[regulation or]~~ order promulgated by an executive department or agency which relates to any aspect of local government or any service provided thereby. The director of the Legislative Research Commission shall determine the form of such notes. The secretary may request the advice or assistance of the Legislative Research Commission in the preparation of the fiscal note. The fiscal note shall be attached to each copy of the~~[regulation or]~~ order.

Section 4. KRS 6.965 is amended to read as follows:

(1) A fiscal note shall state whether the bill~~[, regulation]~~ or order is determined to be a state mandate. Such determination shall be made by the director of the Legislative Research Commission except as provided by subsection (2) of this section. If the bill~~[, regulation]~~ or order is a state mandate, the note shall contain an estimate of the effect the law will have on expenditures or revenues of local government for the first full fiscal year the law is to be in effect.

(2) The director, at his discretion, may seek a certification from the Attorney General on the question of whether a bill,~~[regulation]~~ or order constitutes a state mandate. The Attorney General shall, within seven (7) working days from receipt of

the request, certify to the director that the bill, regulation or order is or is not a state mandate.

(3) If any bill[~~, regulation~~] or order is amended after the preparation of the fiscal note, it shall be resubmitted to the person responsible for preparation of the note who shall reevaluate the bill[~~, regulation~~] or order as amended and change the fiscal note in accordance therewith.

(4) Copies of the fiscal note shall be furnished by the Legislative Research Commission to any local official upon written request.

Section 5. KRS 13A.050 is amended to read as follows:

(1) The Legislative Research Commission shall compile, publish, and distribute the administrative regulations filed by administrative bodies. This compilation shall be known as the Kentucky Administrative Regulations Service and shall constitute the official state publication of administrative regulations.

(2) (a) There is hereby created a publication known as "The Administrative Register" to be printed and published on a monthly basis by the Legislative Research Commission for the purpose of giving notice of administrative regulations filed in accordance with this chapter.

(b) Every administrative regulation forwarded to the Legislative Research Commission shall have its complete text printed in the Administrative Register along with the accompanying statements required by KRS 13A.190, 13A.210, 13A.2251(1), 13A.240, 13A.245, 13A.250, and 13A.270.

(c) Within five (5) workdays of the publication of an administrative regulation in the Administrative Register, an administrative body shall:

1. Review the text and accompanying statements of the administrative regulation; and

2. Notify the regulations compiler in writing of errors.

(3) The Administrative Register shall be published the first day of each month and shall include all administrative regulations[~~ and notices of intent required by the provisions of KRS 13A.015,~~] received by the Legislative Research Commission by 12 noon, eastern time, on the fifteenth day of the preceding month. When the fifteenth day falls on a Saturday, Sunday, or holiday the deadline is the workday which immediately precedes the Saturday, Sunday, or holiday.

(4) The compiler shall cause to be prepared a certificate to the effect that the text of the administrative regulations as printed in this service is correct. One (1) copy of the Kentucky Administrative Regulations Service with the original certificate therein shall be maintained in the Office of the Secretary of State. All other copies shall contain a printed copy of the certificate and shall constitute prima facie evidence of the law in all courts and proceedings.

(5) The Commission shall prescribe reasonable fees for subscription to the Kentucky Administrative Regulations Service and the Administrative Register. All fees paid to the Commission for these publications shall be placed in the State Treasury to the credit of a revolving trust or agency fund account, for use by the Legislative Research Commission in carrying out the provisions of this section.

(6) Copies of regulatory impact analysis shall be made available to any interested party upon request to the Legislative Research Commission. The Commission may prescribe reasonable fees for duplication services and all fees paid to the Commission for duplication services shall be placed in the State Treasury to the credit of a revolving trust or agency fund account, for use by the Legislative Research Commission in carrying out the provisions of this subsection.

Section 6. KRS 13A.080 is amended to read as follows:

Each issue of the Administrative Register shall contain a notice describing the regulation review process and the methods by which the public may comment upon administrative regulations, including the procedure for contacting agencies about public hearings ***and the public comment period***.

Section 7. KRS 13A.190 is amended to read as follows:

(1) An emergency administrative regulation is one that[~~:~~

[~~(a)~~] must be placed into effect immediately ***due to the existence of at least one (1) of the following criteria:***

(a) The existence of an imminent danger to public health, safety, welfare, or the property of the citizens of the Commonwealth, or the environment of the Commonwealth;

(b) Prevention of[~~in order to:~~

~~1. Meet an imminent threat to public health, safety, or welfare;~~

~~2. Prevent~~] a loss of federal or state funds ***or federal approval of a program or the institution of a change initiated by the federal government; or***

(c) Meeting a deadline that has been established by state law or federal law or regulation for the promulgation of an administrative regulation.

(2) An emergency administrative regulation shall be:

(a) [~~;~~

~~3. Meet a deadline for the promulgation of an administrative regulation that is established by state law, or federal law or regulation; or~~

~~4. Protect human health and the environment; and~~

~~(b) 1. Is~~]Temporary in nature and[~~ will~~] expire as provided in this section; or

(b) [~~2. Is temporary in nature and will be ~~]Replaced by an ordinary administrative regulation as provided in this section.

(3) Unless required by federal law, an emergency administrative regulation shall not:

(a) Create or impose a fine, fee, levy, tax, or other charge; or

(b) Increase an existing fine, fee, levy, tax, or other charge.

(4)[~~(2)~~] Emergency administrative regulations shall become effective and shall be considered as adopted upon filing. Emergency administrative regulations shall be published in the next Administrative Register.

(5)[~~(3)~~] (a) Except as provided by paragraph (b) of this subsection, emergency administrative regulations shall expire one hundred seventy (170) days after the date of publication or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.

(b) If an administrative body extends the[~~ public comment period as provided by KRS 13A.270(1), or extends the~~] time for filing a statement of consideration as provided by ***subsection (2)(b) of Section 14 of this Act***[~~KRS 13A.280(3)~~], an emergency administrative regulation shall remain in effect for one hundred seventy (170) days aft~~e~~r the date of publication plus the number of days extended under the provisions of ***subsection (2)(b) of Section 14 of this Act***[~~KRS 13A.270(1) or 13A.280(3), as applicable~~].

(6)[~~(4)~~] An emergency administrative regulation shall not be ***filed if the***[~~renewed for a period of nine (9) months after it has been initially filed. No other~~] emergency administrative regulation ***is on the same subject***[~~that is identical to or substantially the same~~] as ***an***[~~the previously filed~~] emergency administrative regulation ***filed within the previous twelve (12) months***[~~shall be promulgated.~~

~~(5) When an emergency administrative regulation governing the same subject matter governed by an emergency administrative regulation filed within the previous nine (9) months is filed, it shall contain a detailed explanation of the manner in which it differs from the previously filed emergency administrative regulation. The detailed explanation shall be included in the statement of emergency~~].

(7)[~~(6)~~] Each emergency administrative regulation shall contain a ***detailed*** statement of:

(a) The nature of the emergency;

(b) The reasons why an ordinary administrative regulation is not sufficient;

(c) ***Which of the criteria in subsection (1) of this section have been met;***

(d) The conditions that exist that cause at least one (1) of the criteria in subsection (1) of this section to be met;

(e) Whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation; ***and***

(f)[~~(d)~~] If the emergency administrative regulation will not be replaced by an ordinary administrative regulation, the reasons therefor[~~; and~~

~~(e) If applicable, the explanation required by subsection (5) of this section~~].

(8)[~~(7)~~] An administrative body shall attach the:

(a) Statement of emergency required by subsection ***(7)***[~~(6)~~] of this section to the front of the original and each copy of a proposed emergency administrative regulation; and

(b) Regulatory impact analysis, tiering statement, federal mandate comparison, fiscal note, summary of material incorporated by reference if applicable, and other forms or documents required by the provisions of this chapter to the back of the emergency administrative regulation.

(9) (a)[~~(8)~~] If an emergency administrative regulation will not be replaced by an ordinary administrative regulation, the administrative body shall schedule a public hearing ***and public comment period*** pursuant to KRS 13A.270(1). The public hearing ***and public comment period*** information required by KRS 13A.270(2) shall be attached to the back of the emergency administrative regulation.

(b) If an emergency administrative regulation will be replaced by an ordinary administrative regulation:

1. The ordinary administrative regulation shall be filed at the same time as the emergency administrative regulation that will be replaced; and

2. A public hearing and public comment period shall not be required for the emergency administrative regulation.

(10)[~~(9)~~] The statement of emergency shall have a two (2) inch top margin. The number of the emergency administrative regulation shall be typed directly below the heading "Statement of Emergency." The number of the emergency administrative regulation shall be the same number as the ordinary administrative regulation followed by an "E."

(11)[~~(10)~~] Each executive department emergency administrative regulation shall be signed by the head of the administrative body and countersigned by the Governor prior to filing with the Commission. These signatures shall be on the statement of emergency attached to the front of the emergency administrative regulation.

(12)[~~(11)~~] (a) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the emergency administrative regulation shall expire on the date the ordinary administrative regulation is withdrawn.

(b) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.

(13)[~~(12)~~] (a) If an emergency administrative regulation, that was intended to be replaced by an ordinary administrative regulation, is withdrawn, the emergency administrative regulation shall expire on the date it is withdrawn.

(b) If an emergency administrative regulation has been withdrawn, the ordinary administrative regulation that was filed with it shall not expire unless the administrative body informs the regulations compiler that the ordinary administrative regulation is also withdrawn.

(c) If an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.

(14)[~~(13)~~] A subcommittee may review an emergency administrative regulation and may recommend to the Governor that the regulation be withdrawn.

Section 8. KRS 13A.210 is amended to read as follows:

(1) When promulgating administrative regulations and reviewing existing ones, administrative bodies shall, whenever possible, tier their administrative regulations to reduce disproportionate impacts on certain classes of regulated entities and to avoid regulating entities that do not contribute significantly to the problem the administrative regulation was designed to address. The tiers, however, must be based upon reasonable criteria and uniformly applied to an entire class. Administrative bodies ***shall***[~~may~~] use any number of tiers ***that***[~~they feel~~] will solve most ***efficiently and*** effectively the problem the administrative regulation addresses. A written statement ***shall***[~~must~~] be submitted to the Legislative Research Commission explaining why tiering was or was not used.

(2) Administrative bodies may use, but shall not be limited to, the following methods of tiering administrative regulations:

(a) Reduce or modify substantive regulatory requirements;

(b) Eliminate some requirements entirely;

(c) Simplify and reduce reporting and recordkeeping requirements;

(d) Provide exemptions from reporting and recordkeeping requirements;

(e) Reduce the frequency of inspections;

(f) Provide exemptions from inspections and other compliance activities;

(g) Delay compliance timetables;

(h) Reduce or modify fine schedules for noncompliance***; and***

(i) Address and alleviate special problems of individuals and small businesses in complying with an administrative regulation.

(3) When tiering regulatory requirements, administrative bodies may use, but shall not be limited to, size and nonsize variables. Size variables include number of citizens, number of employees, level of operating revenues, level of assets, and market shares. Nonsize variables include degree of risk posed to humans, technological and economic ability to comply, geographic locations, and level of federal funding.

(4) When modifying tiers, administrative bodies shall monitor, but shall not be limited to, the following variables:

(a) Changing demographic characteristics;

(b) Changes in the composition of the work force;

(c) Changes in the inflation rate requiring revisions of dollar-denominated tiers;

(d) Changes in market concentration and segmentation;

(e) Advances in technology; and

(f) Changes in legislation.

(5) When tiering administrative regulations for small business concerns, administrative bodies shall use the small business size standards as defined in Section 632 of the Federal Small Business Act and Part 121 of Title Thirteen of the Code of Federal Regulations.

Section 9. KRS 13A.220 is amended to read as follows:

All administrative regulations shall comply with the provisions of KRS 13A.222 and 13A.224.

(1) An administrative body shall file with the regulations compiler:

(a) The original and five (5) copies of an administrative regulation; and

(b) At the same time the original and five (5) copies are filed, an electronic version, if available, of the administrative regulation and required attachments on a diskette or by e-mail in an electronic format approved by the regulations compiler.

(2) The original and each copy of each administrative regulation shall be stapled in the top left corner. The original and the five (5) copies of each administrative regulation shall be grouped together.

(3) An amendment to an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky Administrative Regulations Service or the Administrative Register. It shall be a typed original in the format specified in subsection (4) of this section.

(4) The format of an administrative regulation shall be as follows:

(a) An administrative regulation shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches and shall be double-spaced ***through the last line of the body of the administrative regulation***. The first page shall have a two (2) inch top margin.[~~Subsequent pages shall have one (1) inch top, bottom, and side margins.~~] The administrative regulation shall be typed in a twelve (12) point font approved by the regulations compiler. The lines on each page shall be numbered. Pages of an administrative regulation and documents attached to the administrative regulation shall be numbered sequentially. Page numbers shall be centered in the bottom margin of each page. Copies of the administrative regulation may be mechanically reproduced;

(b) The regulations compiler shall place a stamp indicating the date and time of receipt of the administrative regulation in the two (2) inch margin on the first page;

(c) The cabinet, department, and division of the administrative body shall be listed on separate double-spaced lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed on the next double-spaced line by "(New Administrative Regulation)," "(Amendment)," "(Amended After ***Comments***[~~Hearing~~])," [~~, or~~] "(Repealer)," ***"(New Emergency Administrative Regulation)," "(Emergency Amendment)," or "(Emergency Repealer),"*** whichever is applicable;

(d) The notation shall be followed by the number and title of the administrative regulation on the next double-spaced line. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new administrative regulation;

(e) On the next double-spaced line following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list all statutes and other enactments, including any branch budget bills or executive orders, to which the administrative regulation relates or which shall be affected by the administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list the specific statutes and other enactments, where applicable, authorizing the promulgation of the administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by KRS 13A.2261, 13A.2264, 13A.2267; and

(f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY, FUNCTION, AND CONFORMITY:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation, a summary of the functions intended to be implemented by the administrative regulation, and ***the***[~~, if~~] applicable[~~, the~~] statement required by KRS 13A.245(2)(b).

(5) The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an Arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an Arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses, (e.g., (a), (b), (c), etc.). Subparagraphs shall be designated by an Arabic number followed by a period, (e.g., 1., 2., etc.). Clauses shall be designated by lower case letters of the alphabet followed by a period, (e.g., a., b., c., etc.). ***Subclauses shall be designated by lower case Roman numerals in parentheses, (e.g., (i), (ii), (iii), etc.).***

(6) After the complete text of an administrative regulation, ***on the following page,*** the administrative body shall include the following information:

(a) If the provisions of KRS 13A.120(3) are applicable, a statement that the official or the head of the administrative body has reviewed or approved the administrative regulation; the signature of such official or head; and the date on which such review or approval occurred;

(b) The authorizing signature of the administrative body promulgating the administrative regulation, and the date on which the administrative body approved the promulgation;

(c) Information relating to public hearings as required by KRS 13A.160 and 13A.270 ***and the public comment period required by Section 13 of this Act***; and

(d) The name, position, address, telephone number, and facsimile number of the contact person of the administrative body. The contact person shall be the person authorized by the head of an administrative body to:

1. Receive information relating to issues raised by the public or by a subcommittee prior to a public meeting

of the subcommittee;

2. Negotiate changes in language with a subcommittee in order to resolve such issues; and

3. Answer questions relating to the administrative regulation.

(7) The format for signatures required by paragraphs (a) and (b) of subsection (6) of this section shall be as follows:

(a) The signature shall be placed on a signature line; and

(b) The name and title of the person signing shall be typed immediately beneath the signature line.

Section 10. KRS 13A.230 is amended to read as follows:

(1) The administrative body shall attach the following forms to the back of the original and each copy of an administrative regulation:

(a) Regulatory impact analysis ***as required by KRS 13A.240***;

(b) Tiering statement ***as required by Section 8 of this Act***;

(c) ***Fiscal note as required by Section 12 of this Act***[~~Local mandate impact statement~~], if the administrative regulation relates to any aspect of local government or any service provided thereby;

(d) Federal mandate comparison, if applicable***, as required by Section 11 of this Act***; and

(e) The summaries provided for in KRS 13A.2261, 13A.2264, and 13A.2267, if applicable.

(2) The forms required by subsection (1) of this section shall be obtained from the regulations compiler.

Section 11. KRS 13A.245 is amended to read as follows:

(1) (a) When promulgating administrative regulations and amending existing administrative regulations in response to a federal mandate, an administrative body shall compare its proposed compliance standards with any minimum or uniform standards suggested or contained in the federal mandate.

(b) Such a comparison shall include, in detail, a written determination by the administrative body on whether the proposed state administrative regulation will impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate.

(c) If the administrative body determines that the proposed state administrative regulation imposes additional requirements or responsibilities on the regulated entities than is required by the federal mandate, the administrative body shall include in its comparison analysis a written statement justifying the imposition of stricter standards, requirements, or responsibilities.

(2) (a) Except as provided by paragraph (b) of this subsection, an administrative regulation shall conform to a federal law or regulation governing a subject matter if an administrative body is:

1. Not required by federal law or regulation to promulgate an administrative regulation to comply with a federal law or regulation governing the subject matter; and

2. Required or authorized by state law to promulgate an administrative regulation governing the subject matter.

(b) If ***an***[~~the~~] administrative regulation is ***required or authorized by***[~~more stringent than or otherwise differs from the~~] federal law or regulation[~~ governing the subject matter~~], the[~~ administrative body shall state in detail in the~~] "NECESSITY, FUNCTION, AND CONFORMITY" paragraph of the administrative regulation ***shall state: This administrative regulation is required or authorized by (provide the specific citation to the applicable federal law or regulation)." The paragraph shall also include the statement and information required by the applicable subparagraph of this paragraph as follows:***

1. If an administrative regulation required or authorized by federal law or regulation is not more stringent than the federal law or regulation, the paragraph shall also state: "This administrative regulation is not more stringent than the minimum requirements contained in (provide the specific citation to the applicable federal law or regulation)."

2. If an administrative regulation required or authorized by federal law or regulation is more stringent than the federal law or regulation, the paragraph shall also state: "This administrative regulation is more stringent than the minimum requirements contained in (provide the specific citation to the applicable federal law or regulation)," and shall summarize the manner in which it is more stringent than or otherwise differs from the federal law or regulation, and the reasons therefor.

Section 12. KRS 13A.250 is amended to read as follows:

(1) Each administrative body which promulgates an administrative regulation which relates to any aspect of local government or any service provided thereby shall prepare and submit with the administrative regulation a fiscal note.

(2) The[~~ form of the~~] fiscal note shall ***state:***

(a) The number of the administrative regulation;

(b) The name and telephone number of the contact person of the administrative body;

(c) Whether the administrative regulation relates to any aspect of a local government, including any service provided by that local government;

(d) The unit, part, or division of local government the administrative regulation will affect;

(e) In detail, the aspect or service of local government to which the administrative regulation relates, including identification of the applicable state or federal statute or regulation that mandates the aspect or service or authorizes the action taken by the administrative regulation; and

(f) The estimated effect of the administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation will be in effect. If specific dollar estimates cannot be determined, the administrative body shall provide a brief narrative to explain the fiscal impact of the[~~be determined by the Commission by~~] administrative regulation.

(3) Any administrative body may request the advice and assistance of the Commission in the preparation of the fiscal note.

Section 13. KRS 13A.270 is amended to read as follows:

(1) (a) *In addition to the public comment period required*[~~Except as provided~~] by paragraph (c) of this subsection, following publication in the Administrative Register of the text of an administrative regulation, the administrative body shall, unless authorized to cancel the hearing pursuant to subsection *(5)*[~~(4)~~] of this section, hold a hearing, open to the public, on the administrative regulation.

(b) The public hearing shall not be held before the twenty-first day or later than the last workday of the month in which the administrative regulation is published in the Administrative Register.

(c) *The*[~~If an~~] administrative body *shall accept written comments regarding the administrative regulation for a period of thirty (30) days following the publication of the administrative regulation in the Administrative Register. If the thirtieth day of the comment period falls on a Saturday, Sunday, or holiday, the last day of the comment period shall be the workday following the Saturday, Sunday, or holiday*[~~anticipates a significant number of public comments, it may extend the public comment period for up to fifteen (15) days by notifying the commission in writing on or before 12 noon of the scheduled public hearing date~~].

(2) Each administrative regulation shall state:

(a) The place, time, and date of the scheduled public hearing;

(b) The manner in which interested persons shall submit their:

1. Notification of attending the public hearing; and

2. Written comments;

(c) That notification of attending the public hearing shall be transmitted to the administrative body no later than five (5) workdays prior to the date of the scheduled public hearing;[~~ and~~]

(d) *The deadline for submitting written comments regarding the administrative regulation in accordance with paragraph (c) of subsection (1) of this section; and*

(e) The name, position, address, and telephone and facsimile numbers of the person to whom a notification and written comments shall be transmitted.

(3) *(a) An administrative body shall provide a form to be completed and filed by a person who wishes to be notified that the administrative body has filed an administrative regulation. This registration shall be valid for a period of four (4) years from the date the form is filed with the administrative body, or until the person submits a written request to be removed from the notification list, whichever occurs first.*

(b) A copy of the administrative regulation as filed, and all attachments required by subsection (1) of Section 10 of this Act, shall be mailed:

1. To every person who has filed this form with the administrative body;

2. Within five (5) working days after the date the administrative regulation is filed with the Commission; and

3. With a cover letter from the administrative body requesting that affected individuals, businesses, or other entities submit written comments that identify the anticipated effects of the proposed administrative regulation.

(4) Persons desiring to be heard at the hearing shall notify the administrative body in writing as to their desire to appear and testify at the hearing not less than five (5) workdays before the scheduled date of the hearing.

(5)[~~(4)~~] The administrative body shall immediately notify the regulations compiler by telephone and by letter if:

(a) No written notice of intent to attend the public hearing is received by the administrative body at least five (5) workdays before the scheduled hearing, and it chooses to cancel the public hearing; *and*[~~or~~]

(b) No written *comments have been received by the close of the last day of the public comment period*[~~notice of intent to attend the public hearing is received by the administrative body at least five (5) workdays before the scheduled hearing; it has cancelled the public hearing; and it has received written or oral statements that shall be~~

~~considered~~].

(6) ***(a)***[~~(5)~~] Upon receipt from interested persons of their intent to attend a public hearing, the administrative body shall notify the regulations compiler by telephone and by letter that the public hearing shall be held.

(b) Upon receipt of written comments, the administrative body shall notify the regulations compiler by telephone and by letter that written comments have been received.

(7)[~~(6)~~] Every hearing shall be conducted in such a manner as to guarantee each person who wishes to offer comment a fair and reasonable opportunity to do so, whether or not such person has given the notice contemplated by subsection ***(4)***[~~(3)~~] of this section. No transcript need be taken of the hearing, unless a written request for a transcript is made, in which case the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This section shall not preclude an administrative body from making a transcript or making a recording if it so desires.

(8)[~~(7)~~] Nothing in this section shall be construed as requiring a separate hearing on each administrative regulation. Administrative regulations may be grouped at the convenience of the administrative body for purposes of hearings required by this section.

Section 14. KRS 13A.280 is amended to read as follows:

(1) Following the ***last day of the comment period***[~~scheduled hearing date~~], the administrative body shall give consideration to all[~~ written and oral~~] comments received ***at the public hearing and during the comment period***[~~by adjournment of the scheduled public hearing, or by the close of business on the scheduled public hearing date if the public hearing was not held~~].

(2) ***(a) Except as provided in paragraph (b) of this subsection,*** the administrative body shall[~~ then~~] file with the commission on or before 12 noon, eastern time, on the fifteenth day following the ***last day of the comment period***[~~scheduled hearing date~~] the statement of consideration relating to the administrative regulation.

(b) If the administrative body has received a significant number of public comments, it may extend the time for filing the statement of consideration for up to thirty (30) days by notifying the Commission in writing on or before 12 noon, eastern time, of the fifteenth day following the last day of the comment period. The administrative body shall file the statement of consideration with the Commission on or before 12 noon, eastern time, no later than the forty-fifth day following the last day of the comment period.

(3) (a) [~~Except as provided by paragraph (b) of this subsection, ~~]If the administrative regulation is amended as a result of the hearing or written or oral comments received, the administrative body shall forward the items specified in paragraph ***(b)***[~~(c)~~] of this subsection to the regulations compiler by ***12*** noon***, eastern time,*** on the ***applicable deadline specified in subsection (2) of this section***[~~fifteenth day following the hearing~~].

(b)[~~ If an administrative body has received a significant number of public comments, it may extend the time for filing the statement of consideration for up to thirty (30) days by notifying the Commission in writing on or before 12 noon of the fifteenth day following the public hearing. The administrative body shall file with the Commission on or before 12 noon, eastern time, no later than the forty-fifth day following the public hearing date the items specified in paragraph (c) of this subsection.~~

~~(c)~~] 1. The original and five (5) copies of the administrative regulation indicating any amendments in the original wording resulting from ***comments received at the public hearing and during the comment period***[~~the hearing, or resulting from written or oral comments received at the hearing or otherwise~~];

2. The original and five (5) copies of the statement of consideration as required by subsection (2) of this section, attached to the back of the original and each copy of the administrative regulation; and

3. The regulatory impact analysis, tiering statement, federal mandate comparison, or fiscal note on local government. These documents shall reflect changes resulting from amendments made after the public hearing.

(4) ***(a) If the administrative regulation is not amended as a result of the public hearing, or written or oral comments received, the administrative body shall file the original and five (5) copies of the statement of consideration with the regulations compiler by 12 noon, eastern time, on the deadline established in subsection (2) of this section.***

(b) If the statement of consideration is not forwarded to the regulations compiler at least fifteen (15) working days prior to a meeting of the Administrative Regulation Review Subcommittee, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(5) The format for the statement of consideration shall be as follows:

(a) The statement shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches. Copies of the statement may be mechanically reproduced;

(b) The ***first page of the*** statement of consideration shall have a two (2) inch top margin;

(c) The heading of the statement shall consist of the words "STATEMENT OF CONSIDERATION RELATING TO" followed by the number of the administrative regulation that was the subject of the public hearing ***and comment period*** and the name of the promulgating administrative body. The heading shall be centered. This shall be followed by the words "Not Amended After ***Comments***[~~Hearing~~]" or "Amended After ***Comments***[~~Hearing~~]," whichever is applicable;

(d) If a hearing has been held ***or written comments received,*** the heading is to be followed by:

1. A statement setting out the date, time and place of the hearing;
2. A list of those ***persons who attended***[~~attending~~] the hearing or who[~~ have~~] submitted written comments and the organization, agency, or other entity represented, if applicable; and
3. The name and title of the representative of the promulgating administrative body;

(e)[~~ If a hearing has not been held, but written or oral comments have been received:~~

~~1. A list of those who have submitted written or oral comments and the organization, agency, or other entity represented, if applicable; and~~

~~2. The name and title of the representative of the promulgating administrative body responding to the written or oral comments;~~

~~(f)~~] Following the general information, the promulgating administrative body shall summarize the ***comments received at the public hearing and during the comment period***[~~written and oral comments received~~] and the response of the promulgating administrative body. Each subject commented upon shall be summarized in a separate numbered paragraph. Each numbered paragraph shall contain two (2) subsections:

1. Subsection (a) shall be labeled "Comment," shall identify the name of the person, and the organization represented if applicable, who made the comment, and shall contain a summary of the comment; and
2. Subsection (b) shall be labeled "Response" and shall contain the response to the comment by the promulgating administrative body;

(f)[~~(g)~~] Following the summary and comments, the promulgating administrative body shall***:***

1. Summarize the statement and the action taken by the administrative body as a result of ***comments received at*** the public hearing ***and during the comment period; and***

2. If amended after the comment period, list the changes made to the administrative regulation in the format prescribed by subsection (2)(c) and (d) of Section 17 of this Act;

(g)[~~(h)~~] If the promulgating administrative body amends the administrative regulation after a public hearing at which there were no participants other than administrative body personnel, this fact shall be noted in the statement; and

(h)[~~(i)~~] If administrative regulations were considered as a group at a public hearing, one (1) statement of consideration may include the group of administrative regulations. If a comment relates to one (1) or more of the administrative regulations in the group, the summary of the comment and response shall specify each administrative regulation to which it applies.

[~~(5) (a) If the administrative regulation is not amended as a result of the public hearing, or written or oral comments received, the administrative body shall file the original and five (5) copies of the statement of consideration as required by subsection (2) of this section with the regulations compiler by noon on the fifteenth day following the hearing.~~

~~(b) If the statement of consideration is not forwarded to the regulations compiler at least ten (10) working days prior to a meeting of the Administrative Regulation Review Subcommittee, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.~~]

(6) If the administrative regulation is amended pursuant to subsection (3) of this section, the full text of the administrative regulation shall be published in the Administrative Register. The administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee after such publication.

(7) If requested, copies of the statement of consideration shall be made available by the promulgating administrative body to persons attending the hearing or submitting comments.

Section 15. KRS 13A.290 is amended to read as follows:

(1) Except as provided by KRS 158.6471 and 158.6472, within forty-five (45) days after publication of an administrative regulation in "The Administrative Register," or within ***sixty (60)***[~~forty-five (45)~~] days of the receipt of a statement of consideration, the Administrative Regulation Review Subcommittee shall meet to review the administrative regulation.

(2) The meetings shall be open to the public.

(3) Public notice of the time, date, and place of the Administrative Regulation Review Subcommittee meeting shall be given in the Administrative Register.

(4) A representative of the administrative body promulgating the administrative regulation under consideration shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the administrative body with authority to amend the administrative regulation is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(5) Following the meeting and before the next regularly scheduled meeting of the Commission, the Administrative Regulation Review Subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The Administrative Regulation Review Subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has reviewed. One (1) copy thereof shall be sent to the promulgating agency. The Administrative Regulation Review Subcommittee's findings shall be published in the Administrative Register.

(6) (a) After review by the Administrative Regulation Review Subcommittee, the Commission shall, at its next regularly scheduled meeting, assign the ***administrative regulation***[~~matter~~] to:

1. A subcommittee of appropriate jurisdiction over the subject matter ***of the administrative regulation***; or

2. During a session of the General Assembly, the House of Representatives and Senate standing committees of appropriate jurisdiction over the subject matter ***of the administrative regulation***.

(b) Upon notification of the assignment by the Commission, the legislative subcommittee to which the ***administrative regulation***[~~matter~~] is assigned shall notify the regulations compiler:

1. Of the date, time, and place of the meeting at which it will consider the ***administrative regulation***[~~matter~~]; or

2. That it will not meet to consider the ***administrative regulation***[~~matter~~].

(7) Within thirty (30) days of the assignment, the subcommittee ***may***[~~shall~~] hold a public meeting during which the regulation shall be reviewed. If the thirtieth day of the assignment falls on a Saturday, Sunday, or holiday, the deadline for review shall be the workday following the Saturday, Sunday, or holiday. The subcommittee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3). Notice of the time, date, and place of the meeting shall be placed in the legislative calendar.

(8) Except as provided in subsection (9) of this section, a subcommittee shall be empowered to make the same nonbinding determinations and to exercise the same authority as the Administrative Regulation Review Subcommittee.

(9) During a session of the General Assembly, standing committees of the Senate and House of Representatives shall agree in order to amend an administrative regulation or to find an administrative regulation deficient pursuant to KRS 13A.030(2) and (3) by:

(a) Meeting separately; or

(b) Meeting jointly. If the standing committees meet jointly, it shall require a majority vote of Senate members voting and a majority of House members voting in order to take action on the administrative regulation.

(10) (a) Upon adjournment of the meeting at which a legislative subcommittee has considered an administrative regulation pursuant to subsection (7) of this section, the subcommittee shall inform the regulations compiler of its findings, recommendations, or other action taken on the administrative regulation.

(b) Following the meeting and before the next regularly scheduled meeting of the Commission, the subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. One (1) copy thereof shall be sent to the promulgating agency. The subcommittee's findings shall be published in the Administrative Register.

Section 16. KRS 13A.300 is amended to read as follows:

(1) The administrative body which has promulgated an administrative regulation may request at a meeting of a subcommittee that consideration of the administrative regulation be deferred by the subcommittee. Upon receipt of the request, the subcommittee may defer consideration of the administrative regulation.

(2) A subcommittee may request that consideration of an administrative regulation be deferred by the promulgating administrative body. Upon receipt of the request, the promulgating administrative body may agree to defer consideration of the administrative regulation.

(3)[~~Except as provided in subsections (1) and (2) of this section, neither the promulgating administrative body, the Commission, nor a subcommittee shall defer any action which is required to be taken pursuant to this chapter.~~

~~(4)~~] An administrative regulation that has been deferred shall be placed on the agenda of the next scheduled meeting of the subcommittee that is reviewing the administrative regulation. The subcommittee shall consider the administrative regulation as if it had met all other requirements of filing. Repromulgation shall not be required in such cases.

Section 17. KRS 13A.320 is amended to read as follows:

(1) (a) An administrative body may amend an administrative regulation at a subcommittee meeting with the consent of the subcommittee. A subcommittee may amend an administrative regulation at a subcommittee meeting with the consent of the administrative body.

(b) An administrative regulation shall not be amended at a public meeting of a subcommittee unless the amendment concerns an issue that was related to the administrative regulation filed with the Legislative Research Commission and was:

1. Considered at the public hearing; or

2. Raised pursuant to a written comment received by the administrative body pursuant to KRS 13A.280(1); or

3. Raised by the subcommittee.

(c) Nothing in this chapter shall be construed to require its resubmission or refiling or other action. The administrative regulation may be adopted as amended.

(d) Subsequent to its adoption, the administrative regulation shall be published in the Administrative Register, unless all amendments to the administrative regulation that were made at a meeting of a subcommittee:

1. Relate only to the format and drafting requirements of KRS 13A.220(5) and 13A.222(4)(b), (c), (i), (j), and (k); and

2. Do not alter the intent, meaning, conditions, standards, or other requirements of the administrative regulation.

(e) If the amendments to an administrative regulation made at a meeting of a subcommittee meet the requirements of paragraph (d) of this subsection, the regulations compiler shall publish a notice in the Administrative Register that the administrative regulation was amended at a subcommittee meeting only to comply with the format and drafting requirements of this chapter.

(2) When an administrative body intends to amend an administrative regulation at a meeting of the subcommittee, the following requirements shall be met:

(a) Amendments offered by the administrative body to resolve issues raised by a subcommittee prior to its meeting shall be approved by the head of the administrative body.

(b) Amendments initiated by the administrative body shall be contained in a letter to the subcommittee. The letter shall:

1. Identify the administrative body;

2. State the number and title of the administrative regulation;

3. Be dated;

4. Be filed with the regulations compiler at least five (5) workdays prior to the meeting of the subcommittee; and

5. Comply with the format requirements in paragraphs (c) and (d) of this subsection.

(c) On separate lines, the amendment shall be identified by the number of the:

1. Page;

2. Section, subsection, paragraph, subparagraph, ***clause, or subclause,*** as appropriate; and

3. Line.

(d) 1. If a word or phrase, whether or not underlined, is to be deleted, the amendment shall identify the word or phrase to be deleted and state that it is to be deleted. If a word or phrase is to be replaced by another word or phrase, the amendment shall specify the word or phrase that is to be deleted and shall specify the word or phrase that is to be inserted in lieu thereof.

2. If new language is to be inserted, the amendment shall state that it is to be inserted, and the new language shall be underlined.

3. If the amendment consists of no more than four (4) words, the words shall be placed between quotation marks. If the amendment consists of more than four (4) words, the amendment shall be indented and not placed between quotation marks.

4. If a section, subsection, paragraph, subparagraph, clause, or subclause is to be deleted in its entirety, the amendment shall identify it and state that it is deleted in its entirety, whether or not it contains underlined or bracketed language.

(3) An administrative body shall submit twenty (20) copies of an amendment to an administrative regulation to the regulations compiler prior to the ***Administrative Regulation Review*** Subcommittee meeting at which the amendment will be considered.

Section 18. KRS 194B.050 is amended to read as follows:

(1) The secretary shall formulate, promote, establish, and execute policies, plans, and programs and shall adopt, administer, and enforce throughout the Commonwealth all applicable state laws and all administrative regulations necessary under applicable state laws to protect, develop, and maintain the welfare, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

(2) The secretary shall utilize the Council for Families and Children to review and make recommendations on contemplated administrative regulations. No administrative regulations issued under the authority of the cabinet shall be filed with the

Legislative Research Commission unless issued under the authority of the secretary, and the secretary shall not delegate this authority.~~[All administrative regulations prepared within the cabinet shall be attested as to form and legality by the Office of the General Counsel.]~~

(3) Except as otherwise provided by law, the secretary shall have authority to establish by administrative regulation a schedule of reasonable fees, none of which shall exceed one hundred dollars ($100), to cover the costs of annual inspections of efforts regarding compliance with program standards administered by the cabinet. The balance of the account shall lapse to the general fund at the end of each biennium. Fees shall not be charged for investigation of complaints.

Section 19. KRS 199.420 is amended to read as follows:

(1) The secretary shall have the power and authority to ***promulgate***~~[adopt, amend, or rescind]~~ those administrative regulations that the secretary deems necessary or suitable for the proper administration of the functions of the cabinet, including qualification for the receipt of federal funds and for cooperation with other state and federal agencies.~~[These administrative regulations shall become effective in the manner and at the time prescribed by the secretary.]~~

(2) In the administration of KRS 199.420 to 199.670 the secretary shall cooperate to the fullest extent possible with any agency of this state or any other state of the United States.

(3) The secretary is authorized, subject to the provisions of KRS Chapters 12, 18A, 42, 45, and 64, to appoint, fix the compensation, and prescribe the duties and powers of any officers and employees as are necessary in the performance of the secretary's duties under KRS 199.420 to 199.670. All positions shall be filled by persons selected and appointed on a nonpartisan merit basis, in accordance with merit standards established by law. The secretary shall not employ or pay any person who is an officer or committee member of any political party organization. The secretary may delegate to any person so appointed that power and authority as the secretary deems reasonable and proper for the effective administration of KRS 199.420 to 199.670.

(4) The secretary shall have the power and authority to elect coverage for the workers in the cabinet, under the provisions of KRS Chapter 341, and may elect coverage for these workers under the workers' compensation law of this state. In the event the coverage is elected the payment of contributions under KRS Chapter 341 and premiums under the workers' compensation law shall be deemed a proper cost of administration.

(5) The salaries and expenses of the secretary and the secretary's staff shall be considered a proper cost of administration and charged to the funds allocated to the Cabinet for Families and Children.

Section 20. The following KRS sections are repealed:

13A.015 Notice of intent to promulgate an administrative regulation -- Public hearing.

13A.016 KRS 13A.015 inapplicable to administrative regulation promulgated only for drafting or format requirements.

13A.017 Consideration of comments from public hearing -- Post-hearing filings or notification.

Section 21. A person who has previously filed the form required by KRS 13A.015(4) with an administrative body shall be deemed to have fulfilled the requirement established by subsection (3) of Section 13 of this Act. Upon the effective date of this Act, the administrative body shall include any such person in the provisions established pursuant to subsection (3) of Section 13 of this Act.

Section 22. (1) Notices of intent filed prior to the effective date of this Act shall expire on the effective date of this Act.

(2) Emergency administrative regulations in effect prior to the effective date of this Act shall remain in effect as provided by subsection (5) of Section 7 of this Act.

The Committee Substitute to **SB 33** is as follows:

SB 33, AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.950 is amended to read as follows:

As used in KRS 6.955 to 6.975, unless the context otherwise requires:

(1) "Fiscal note" means a realistic statement of the estimated effect on expenditures or revenue of local government in implementing or complying with any proposed act of the General Assembly whether filed in regular session or prefiled during the interim,~~[regulation,]~~ order, or administrative law.

(2) "Local government" means cities, counties or urban-county governments.

(3) "State mandate" means any state constitutional, legislative, or executive law or order which requires any local government to establish, expand, or modify its activities, programs, or structure in such a way as to affect expenditures from local revenues.

Section 2. KRS 6.955 is amended to read as follows:

(1) No bill or resolution which relates to any aspect of local government or any service provided thereby shall be voted on by either chamber of the General Assembly unless a fiscal note has been prepared and attached to the bill pursuant to KRS

6.960, except that, if in the chamber in which the bill is being considered, two-thirds (2/3) of the members elected vote to waive the fiscal note requirement, no note shall be required. The fiscal note waiver shall be certified by the clerk of the chamber in which the bill is being considered, and such certification shall be attached to the bill. Although waived in one chamber, a fiscal note shall be required when the bill goes to the other chamber unless a majority of the members elected to such chamber vote to waive the fiscal note requirement.

(2) ***An***[~~No~~] executive[~~ regulation or~~] order which relates to any aspect of local government or any service provided thereby shall ***not*** be[~~ promulgated or~~] issued unless a fiscal note has been prepared and made a part of the[~~ regulation or~~] order pursuant to KRS 6.960.

Section 3. KRS 6.960 is amended to read as follows:

(1) The director of the Legislative Research Commission shall have the fiscal note prepared by the Legislative Research Commission or by other departments or agencies of state government for any bill introduced before the General Assembly which relates to any aspect of local government or any service provided thereby. Departments or agencies of state government so requested by the director shall comply with the request within seven (7) working days of receipt. The fiscal note shall be filed with the clerk in the chamber of the General Assembly in which the bill was introduced and attached to each copy of the bill.

(2) The secretary of finance shall have the fiscal note prepared by the Finance and Administration Cabinet or by other departments or agencies of state government for any[~~ regulation or~~] order promulgated by an executive department or agency which relates to any aspect of local government or any service provided thereby. The director of the Legislative Research Commission shall determine the form of such notes. The secretary may request the advice or assistance of the Legislative Research Commission in the preparation of the fiscal note. The fiscal note shall be attached to each copy of the[~~ regulation or~~] order.

Section 4. KRS 6.965 is amended to read as follows:

(1) A fiscal note shall state whether the bill[~~, regulation~~] or order is determined to be a state mandate. Such determination shall be made by the director of the Legislative Research Commission except as provided by subsection (2) of this section. If the bill[~~, regulation~~] or order is a state mandate, the note shall contain an estimate of the effect the law will have on expenditures or revenues of local government for the first full fiscal year the law is to be in effect.

(2) The director, at his discretion, may seek a certification from the Attorney General on the question of whether a bill,[~~ regulation~~] or order constitutes a state mandate. The Attorney General shall, within seven (7) working days from receipt of the request, certify to the director that the bill, regulation or order is or is not a state mandate.

(3) If any bill[~~, regulation~~] or order is amended after the preparation of the fiscal note, it shall be resubmitted to the person responsible for preparation of the note who shall reevaluate the bill[~~, regulation~~] or order as amended and change the fiscal note in accordance therewith.

(4) Copies of the fiscal note shall be furnished by the Legislative Research Commission to any local official upon written request.

Section 5. KRS 13A.050 is amended to read as follows:

(1) The Legislative Research Commission shall compile, publish, and distribute the administrative regulations filed by administrative bodies. This compilation shall be known as the Kentucky Administrative Regulations Service and shall constitute the official state publication of administrative regulations.

(2) (a) There is hereby created a publication known as "The Administrative Register" to be printed and published on a monthly basis by the Legislative Research Commission for the purpose of giving notice of administrative regulations filed in accordance with this chapter.

(b) Every administrative regulation forwarded to the Legislative Research Commission shall have its complete text printed in the Administrative Register along with the accompanying statements required by KRS 13A.190, 13A.210, 13A.2251(1), 13A.240, 13A.245, 13A.250, and 13A.270.

(c) Within five (5) workdays of the publication of an administrative regulation in the Administrative Register, an administrative body shall:

1. Review the text and accompanying statements of the administrative regulation; and
2. Notify the regulations compiler in writing of errors.

(3) The Administrative Register shall be published the first day of each month and shall include all administrative regulations[~~ and notices of intent required by the provisions of KRS 13A.015,~~] received by the Legislative Research Commission by 12 noon, eastern time, on the fifteenth day of the preceding month. When the fifteenth day falls on a Saturday, Sunday, or holiday the deadline is the workday which immediately precedes the Saturday, Sunday, or holiday.

(4) The compiler shall cause to be prepared a certificate to the effect that the text of the administrative regulations as printed in this service is correct. One (1) copy of the Kentucky Administrative Regulations Service with the original certificate therein shall be maintained in the Office of the Secretary of State. All other copies shall contain a printed copy of the certificate and shall constitute prima facie evidence of the law in all courts and proceedings.

(5) The Commission shall prescribe reasonable fees for subscription to the Kentucky Administrative Regulations Service and

the Administrative Register. All fees paid to the Commission for these publications shall be placed in the State Treasury to the credit of a revolving trust or agency fund account, for use by the Legislative Research Commission in carrying out the provisions of this section.

(6) Copies of regulatory impact analysis shall be made available to any interested party upon request to the Legislative Research Commission. The Commission may prescribe reasonable fees for duplication services and all fees paid to the Commission for duplication services shall be placed in the State Treasury to the credit of a revolving trust or agency fund account, for use by the Legislative Research Commission in carrying out the provisions of this subsection.

Section 6. KRS 13A.080 is amended to read as follows:

Each issue of the Administrative Register shall contain a notice describing the regulation review process and the methods by which the public may comment upon administrative regulations, including the procedure for contacting agencies about public hearings ***and the public comment period***.

Section 7. KRS 13A.125 is amended to read as follows:

Prior to the effective date of a new administrative regulation, or an amended administrative regulation that has been filed with the Legislative Research Commission, an administrative body shall not file subsequent amendments to that administrative regulation unless:

(1) Failure to do so would result in a loss of accreditation, or federal or state funds, or the imposition of another state or federal penalty; or

(2) A court decision, or a federal or state mandate requires immediate implementation of the amendment; or

(3) Conditions warrant the filing of an emergency administrative regulation; or

(4) The amendments are made:

(a) After a public hearing ***or public comment period*** as provided by KRS 13A.280; or

(b) At a subcommittee meeting during which the administrative regulation is reviewed as provided by KRS 13A.290.

Section 8. KRS 13A.190 is amended to read as follows:

(1) An emergency administrative regulation is one that:

(a) Must be placed into effect immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of federal or state funds;

3. Meet a deadline for the promulgation of an administrative regulation that is established by state law, or federal law or regulation; or

4. Protect human health and the environment; and

(b) 1. Is temporary in nature and will expire as provided in this section; or

2. Is temporary in nature and will be replaced by an ordinary administrative regulation as provided in this section.

(2) Emergency administrative regulations shall become effective and shall be considered as adopted upon filing. Emergency administrative regulations shall be published in the next Administrative Register.

(3) (a) Except as provided by paragraph (b) of this subsection, emergency administrative regulations shall expire one hundred seventy (170) days after the date of publication or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.

(b) If an administrative body extends the~~[public comment period as provided by KRS 13A.270(1), or extends the]~~ time for filing a statement of consideration as provided by ***subsection (2)(b) of Section 14 of this Act***~~[KRS 13A.280(3)]~~, an emergency administrative regulation shall remain in effect for one hundred seventy (170) days after the date of publication plus the number of days extended under the provisions of ***subsection (2)(b) of Section 14 of this Act***~~[KRS 13A.270(1) or 13A.280(3), as applicable]~~.

(4) An emergency administrative regulation shall not be ***filed***~~[renewed]~~ for a period of nine (9) months after it has been initially filed. No other emergency administrative regulation that is identical to or substantially the same as the previously filed emergency administrative regulation shall be promulgated.

(5) When an emergency administrative regulation governing the same subject matter governed by an emergency administrative regulation filed within the previous nine (9) months is filed, it shall contain a detailed explanation of the manner in which it differs from the previously filed emergency administrative regulation. The detailed explanation shall be included in the statement of emergency.

(6) Each emergency administrative regulation shall contain a statement of:

(a) The nature of the emergency;

(b) The reasons why an ordinary administrative regulation is not sufficient;

(c) Whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation;

(d) If the emergency administrative regulation will not be replaced by an ordinary administrative regulation, the reasons therefor; and

(e) If applicable, the explanation required by subsection (5) of this section.

(7) An administrative body shall attach the:

(a) Statement of emergency required by subsection (6) of this section to the front of the original and each copy of a proposed emergency administrative regulation; and

(b) Regulatory impact analysis, tiering statement, federal mandate comparison, fiscal note, summary of material incorporated by reference if applicable, and other forms or documents required by the provisions of this chapter to the back of the emergency administrative regulation.

(8) ***(a)*** If an emergency administrative regulation will not be replaced by an ordinary administrative regulation, the administrative body shall schedule a public hearing ***and public comment period*** pursuant to KRS 13A.270(1). The public hearing ***and public comment period*** information required by KRS 13A.270(2) shall be attached to the back of the emergency administrative regulation.

(b) If an emergency administrative regulation will be replaced by an ordinary administrative regulation:

1. The ordinary administrative regulation shall be filed at the same time as the emergency administrative regulation that will be replaced; and

2. A public hearing and public comment period shall not be required for the emergency administrative regulation.

(9) The statement of emergency shall have a two (2) inch top margin. The number of the emergency administrative regulation shall be typed directly below the heading "Statement of Emergency." The number of the emergency administrative regulation shall be the same number as the ordinary administrative regulation followed by an "E."

(10) Each executive department emergency administrative regulation shall be signed by the head of the administrative body and countersigned by the Governor prior to filing with the Commission. These signatures shall be on the statement of emergency attached to the front of the emergency administrative regulation.

(11) (a) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the emergency administrative regulation shall expire on the date the ordinary administrative regulation is withdrawn.

(b) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.

(12) (a) If an emergency administrative regulation, that was intended to be replaced by an ordinary administrative regulation, is withdrawn, the emergency administrative regulation shall expire on the date it is withdrawn.

(b) If an emergency administrative regulation has been withdrawn, the ordinary administrative regulation that was filed with it shall not expire unless the administrative body informs the regulations compiler that the ordinary administrative regulation is also withdrawn.

(c) If an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.

(13) A subcommittee may review an emergency administrative regulation and may recommend to the Governor that the regulation be withdrawn.

Section 9. KRS 13A.210 is amended to read as follows:

(1) When promulgating administrative regulations and reviewing existing ones, administrative bodies shall, whenever possible, tier their administrative regulations to reduce disproportionate impacts on certain classes of regulated entities and to avoid regulating entities that do not contribute significantly to the problem the administrative regulation was designed to address. The tiers, however, must be based upon reasonable criteria and uniformly applied to an entire class. Administrative bodies ***shall***[~~may~~] use any number of tiers ***that***[~~they feel~~] will solve most ***efficiently and*** effectively the problem the administrative regulation addresses. A written statement ***shall***[~~must~~] be submitted to the Legislative Research Commission explaining why tiering was or was not used.

(2) Administrative bodies may use, but shall not be limited to, the following methods of tiering administrative regulations:

(a) Reduce or modify substantive regulatory requirements;

(b) Eliminate some requirements entirely;

(c) Simplify and reduce reporting and recordkeeping requirements;

(d) Provide exemptions from reporting and recordkeeping requirements;

(e) Reduce the frequency of inspections;

(f) Provide exemptions from inspections and other compliance activities;

(g) Delay compliance timetables;[~~ and~~]

(h) Reduce or modify fine schedules for noncompliance***; and***

(i) Address and alleviate special problems of individuals and small businesses in complying with an administrative regulation.

(3) When tiering regulatory requirements, administrative bodies may use, but shall not be limited to, size and nonsize variables. Size variables include number of citizens, number of employees, level of operating revenues, level of assets, and market shares. Nonsize variables include degree of risk posed to humans, technological and economic ability to comply, geographic locations, and level of federal funding.

(4) When modifying tiers, administrative bodies shall monitor, but shall not be limited to, the following variables:

(a) Changing demographic characteristics;

(b) Changes in the composition of the work force;

(c) Changes in the inflation rate requiring revisions of dollar-denominated tiers;

(d) Changes in market concentration and segmentation;

(e) Advances in technology; and

(f) Changes in legislation.

(5) When tiering administrative regulations for small business concerns, administrative bodies shall use the small business size standards as defined in Section 632 of the Federal Small Business Act and Part 121 of Title Thirteen of the Code of Federal Regulations.

Section 10. KRS 13A.220 is amended to read as follows:

All administrative regulations shall comply with the provisions of KRS 13A.222 and 13A.224.

(1) An administrative body shall file with the regulations compiler:

(a) The original and five (5) copies of an administrative regulation; and

(b) At the same time the original and five (5) copies are filed, an electronic version, if available, of the administrative regulation and required attachments on a diskette or by e-mail in an electronic format approved by the regulations compiler.

(2) The original and each copy of each administrative regulation shall be stapled in the top left corner. The original and the five (5) copies of each administrative regulation shall be grouped together.

(3) An amendment to an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky Administrative Regulations Service or the Administrative Register. It shall be a typed original in the format specified in subsection (4) of this section.

(4) The format of an administrative regulation shall be as follows:

(a) An administrative regulation shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches and shall be double-spaced ***through the last line of the body of the administrative regulation***. The first page shall have a two (2) inch top margin.~~[Subsequent pages shall have one (1) inch top, bottom, and side margins.]~~ The administrative regulation shall be typed in a twelve (12) point font approved by the regulations compiler. The lines on each page shall be numbered. Pages of an administrative regulation and documents attached to the administrative regulation shall be numbered sequentially. Page numbers shall be centered in the bottom margin of each page. Copies of the administrative regulation may be mechanically reproduced;

(b) The regulations compiler shall place a stamp indicating the date and time of receipt of the administrative regulation in the two (2) inch margin on the first page;

(c) The cabinet, department, and division of the administrative body shall be listed on separate double-spaced lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed on the next double-spaced line by "(New Administrative Regulation)," "(Amendment)," "(Amended After ***Comments***~~[Hearing]~~)," ~~[or]~~ "(Repealer)," ***"(New Emergency Administrative Regulation)," "(Emergency Amendment)," or "(Emergency Repealer),"*** whichever is applicable;

(d) The notation shall be followed by the number and title of the administrative regulation on the next double-spaced line. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new administrative regulation;

(e) On the next double-spaced line following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list all statutes and other enactments, including any branch budget bills or executive orders, to which the administrative regulation relates or which shall be affected by the administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list the specific statutes and other enactments, where applicable, authorizing the promulgation of the administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by KRS 13A.2261, 13A.2264, 13A.2267; and

(f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY, FUNCTION, AND CONFORMITY:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation, a summary of the functions intended to be implemented by the administrative regulation, and, if applicable, the statement required by KRS 13A.245(2)(b).

(5) The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an Arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an Arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses, (e.g., (a), (b), (c), etc.). Subparagraphs shall be designated by an Arabic number followed by a period, (e.g., 1., 2., etc.). Clauses shall be designated by lower case letters of the alphabet followed by a period, (e.g., a., b., c., etc.). ***Subclauses shall be designated by lower case Roman numerals in parentheses, (e.g., (i), (ii), (iii), etc.).***

(6) After the complete text of an administrative regulation, ***on the following page,*** the administrative body shall include the following information:

(a) If the provisions of KRS 13A.120(3) are applicable, a statement that the official or the head of the administrative body has reviewed or approved the administrative regulation; the signature of such official or head; and the date on which such review or approval occurred;

(b) The authorizing signature of the administrative body promulgating the administrative regulation, and the date on which the administrative body approved the promulgation;

(c) Information relating to public hearings as required by KRS 13A.160 and 13A.270 ***and the public comment period required by Section 13 of this Act***; and

(d) The name, position, address, telephone number, and facsimile number of the contact person of the administrative body. The contact person shall be the person authorized by the head of an administrative body to:

1. Receive information relating to issues raised by the public or by a subcommittee prior to a public meeting of the subcommittee;

2. Negotiate changes in language with a subcommittee in order to resolve such issues; and

3. Answer questions relating to the administrative regulation.

(7) The format for signatures required by paragraphs (a) and (b) of subsection (6) of this section shall be as follows:

(a) The signature shall be placed on a signature line; and

(b) The name and title of the person signing shall be typed immediately beneath the signature line.

Section 11. KRS 13A.230 is amended to read as follows:

(1) The administrative body shall attach the following forms to the back of the original and each copy of an administrative regulation:

(a) Regulatory impact analysis ***as required by KRS 13A.240***;

(b) Tiering statement ***as required by Section 9 of this Act***;

(c) ***Fiscal note as required by Section 12 of this Act***~~[Local mandate impact statement]~~, if the administrative regulation relates to any aspect of local government or any service provided thereby;

(d) Federal mandate comparison, if applicable***, as required by KRS 13A.245***; and

(e) The summaries provided for in KRS 13A.2261, 13A.2264, and 13A.2267, if applicable.

(2) The forms required by subsection (1) of this section shall be obtained from the regulations compiler.

Section 12. KRS 13A.250 is amended to read as follows:

(1) Each administrative body which promulgates an administrative regulation which relates to any aspect of local government or any service provided thereby shall prepare and submit with the administrative regulation a fiscal note.

(2) The~~[form of the]~~ fiscal note shall ***state:***

(a) The number of the administrative regulation;

(b) The name and telephone number of the contact person of the administrative body;

(c) Whether the administrative regulation relates to any aspect of a local government, including any service provided by that local government;

(d) The unit, part, or division of local government the administrative regulation will affect;

(e) In detail, the aspect or service of local government to which the administrative regulation relates, including identification of the applicable state or federal statute or regulation that mandates the aspect or service or authorizes the action taken by the administrative regulation; and

(f) The estimated effect of the administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation will be in effect. If specific dollar estimates cannot be determined, the administrative body shall provide a brief narrative to explain the fiscal impact of the~~[be~~

~~determined by the Commission by]~~ administrative regulation.

(3) Any administrative body may request the advice and assistance of the Commission in the preparation of the fiscal note.

Section 13. KRS 13A.270 is amended to read as follows:

(1) (a) ***In addition to the public comment period required***~~[Except as provided]~~ by paragraph (c) of this subsection, following publication in the Administrative Register of the text of an administrative regulation, the administrative body shall, unless authorized to cancel the hearing pursuant to subsection ***(5)***~~[(4)]~~ of this section, hold a hearing, open to the public, on the administrative regulation.

(b) The public hearing shall not be held before the twenty-first day or later than the last workday of the month in which the administrative regulation is published in the Administrative Register.

(c) ***The***~~[If an]~~ administrative body ***shall accept written comments regarding the administrative regulation for a period of thirty (30) days following the publication of the administrative regulation in the Administrative Register. If the thirtieth day of the comment period falls on a Saturday, Sunday, or holiday, the last day of the comment period shall be the workday following the Saturday, Sunday, or holiday***~~[anticipates a significant number of public comments, it may extend the public comment period for up to fifteen (15) days by notifying the commission in writing on or before 12 noon of the scheduled public hearing date]~~.

(2) Each administrative regulation shall state:

(a) The place, time, and date of the scheduled public hearing;

(b) The manner in which interested persons shall submit their:

1. Notification of attending the public hearing; and

2. Written comments;

(c) That notification of attending the public hearing shall be transmitted to the administrative body no later than five (5) workdays prior to the date of the scheduled public hearing;~~[and]~~

(d) ***The deadline for submitting written comments regarding the administrative regulation in accordance with paragraph (c) of subsection (1) of this section; and***

(e) The name, position, address, and telephone and facsimile numbers of the person to whom a notification and written comments shall be transmitted.

(3) ***(a) An administrative body shall provide a form to be completed and filed by a person who wishes to be notified that the administrative body has filed an administrative regulation. This registration shall be valid for a period of four (4) years from the date the form is filed with the administrative body, or until the person submits a written request to be removed from the notification list, whichever occurs first.***

(b) A copy of the administrative regulation as filed, and all attachments required by subsection (1) of Section 11 of this Act, shall be mailed:

1. To every person who has filed this form with the administrative body;

2. Within five (5) working days after the date the administrative regulation is filed with the Commission; and

3. With a cover letter from the administrative body requesting that affected individuals, businesses, or other entities submit written comments that identify the anticipated effects of the proposed administrative regulation.

(4) Persons desiring to be heard at the hearing shall notify the administrative body in writing as to their desire to appear and testify at the hearing not less than five (5) workdays before the scheduled date of the hearing.

(5)~~[(4)]~~ The administrative body shall immediately notify the regulations compiler by telephone and by letter if:

(a) No written notice of intent to attend the public hearing is received by the administrative body at least five (5) workdays before the scheduled hearing, and it chooses to cancel the public hearing; ***and***~~[or]~~

(b) No written ***comments have been received by the close of the last day of the public comment period***~~[notice of intent to attend the public hearing is received by the administrative body at least five (5) workdays before the scheduled hearing; it has cancelled the public hearing; and it has received written or oral statements that shall be considered]~~.

(6) (a)~~[(5)]~~ Upon receipt from interested persons of their intent to attend a public hearing, the administrative body shall notify the regulations compiler by telephone and by letter that the public hearing shall be held.

(b) Upon receipt of written comments, the administrative body shall notify the regulations compiler by telephone and by letter that written comments have been received.

(7)~~[(6)]~~ Every hearing shall be conducted in such a manner as to guarantee each person who wishes to offer comment a fair and reasonable opportunity to do so, whether or not such person has given the notice contemplated by subsection ***(4)***~~[(3)]~~ of this section. No transcript need be taken of the hearing, unless a written request for a transcript is made, in which case the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This section shall not preclude an administrative body from making a transcript or making a recording if it so desires.

(8)[~~(7)~~] Nothing in this section shall be construed as requiring a separate hearing on each administrative regulation. Administrative regulations may be grouped at the convenience of the administrative body for purposes of hearings required by this section.

Section 14. KRS 13A.280 is amended to read as follows:

(1) Following the ***last day of the comment period***[~~scheduled hearing date~~], the administrative body shall give consideration to all[~~ written and oral~~] comments received ***at the public hearing and during the comment period***[~~by adjournment of the scheduled public hearing, or by the close of business on the scheduled public hearing date if the public hearing was not held~~].

(2) ***(a) Except as provided in paragraph (b) of this subsection,*** the administrative body shall[~~ then~~] file with the commission on or before 12 noon, eastern time, on the fifteenth day following the ***last day of the comment period***[~~scheduled hearing date~~] the statement of consideration relating to the administrative regulation.

(b) If the administrative body has received a significant number of public comments, it may extend the time for filing the statement of consideration for up to thirty (30) days by notifying the Commission in writing on or before 12 noon, eastern time, of the fifteenth day following the last day of the comment period. The administrative body shall file the statement of consideration with the Commission on or before 12 noon, eastern time, no later than the forty-fifth day following the last day of the comment period.

(3) (a) [~~Except as provided by paragraph (b) of this subsection, ~~]If the administrative regulation is amended as a result of the hearing or written or oral comments received, the administrative body shall forward the items specified in paragraph ***(b)***[~~(c)~~] of this subsection to the regulations compiler by ***12*** noon***, eastern time,*** on the ***applicable deadline specified in subsection (2) of this section***[~~fifteenth day following the hearing~~].

(b)[~~ If an administrative body has received a significant number of public comments, it may extend the time for filing the statement of consideration for up to thirty (30) days by notifying the Commission in writing on or before 12 noon of the fifteenth day following the public hearing. The administrative body shall file with the Commission on or before 12 noon, eastern time, no later than the forty fifth day following the public hearing date the items specified in paragraph (c) of this subsection.~~

~~(c)~~] 1. The original and five (5) copies of the administrative regulation indicating any amendments in the original wording resulting from ***comments received at the public hearing and during the comment period***[~~the hearing, or resulting from written or oral comments received at the hearing or otherwise~~];

2. The original and five (5) copies of the statement of consideration as required by subsection (2) of this section, attached to the back of the original and each copy of the administrative regulation; and

3. The regulatory impact analysis, tiering statement, federal mandate comparison, or fiscal note on local government. These documents shall reflect changes resulting from amendments made after the public hearing.

(4) ***(a) If the administrative regulation is not amended as a result of the public hearing, or written or oral comments received, the administrative body shall file the original and five (5) copies of the statement of consideration with the regulations compiler by 12 noon, eastern time, on the deadline established in subsection (2) of this section.***

(b) If the statement of consideration is not forwarded to the regulations compiler at least fifteen (15) working days prior to a meeting of the Administrative Regulation Review Subcommittee, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(5) The format for the statement of consideration shall be as follows:

(a) The statement shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches. Copies of the statement may be mechanically reproduced;

(b) The ***first page of the*** statement of consideration shall have a two (2) inch top margin;

(c) The heading of the statement shall consist of the words "STATEMENT OF CONSIDERATION RELATING TO" followed by the number of the administrative regulation that was the subject of the public hearing ***and comment period*** and the name of the promulgating administrative body. The heading shall be centered. This shall be followed by the words "Not Amended After ***Comments***[~~Hearing~~]" or "Amended After ***Comments***[~~Hearing~~]," whichever is applicable;

(d) If a hearing has been held ***or comments received,*** the heading is to be followed by:

1. A statement setting out the date, time and place of the hearing;

2. A list of those ***persons who attended***[~~attending~~] the hearing or who[~~ have~~] submitted[~~ written~~] comments and the organization, agency, or other entity represented, if applicable; and

3. The name and title of the representative of the promulgating administrative body;

(e)[~~ If a hearing has not been held, but written or oral comments have been received:~~

~~1. A list of those who have submitted written or oral comments and the organization, agency, or other entity represented, if applicable; and~~

~~2. The name and title of the representative of the promulgating administrative body responding to the written or oral comments;~~

~~(f)~~] Following the general information, the promulgating administrative body shall summarize the ***comments received at the public hearing and during the comment period***[~~written and oral comments received~~] and the response of the promulgating administrative body. Each subject commented upon shall be summarized in a separate numbered paragraph. Each numbered paragraph shall contain two (2) subsections:

1. Subsection (a) shall be labeled "Comment," shall identify the name of the person, and the organization represented if applicable, who made the comment, and shall contain a summary of the comment; and
2. Subsection (b) shall be labeled "Response" and shall contain the response to the comment by the promulgating administrative body;

(f)[~~(g)~~] Following the summary and comments, the promulgating administrative body shall***:***

1. Summarize the statement and the action taken by the administrative body as a result of ***comments received at*** the public hearing ***and during the comment period; and***

2. If amended after the comment period, list the changes made to the administrative regulation in the format prescribed by subsection (2)(c) and (d) of Section 17 of this Act;

(g)[~~(h)~~] If the promulgating administrative body amends the administrative regulation after a public hearing at which there were no participants other than administrative body personnel, this fact shall be noted in the statement; and

(h)[~~(i)~~] If administrative regulations were considered as a group at a public hearing, one (1) statement of consideration may include the group of administrative regulations. If a comment relates to one (1) or more of the administrative regulations in the group, the summary of the comment and response shall specify each administrative regulation to which it applies.

[~~(5) (a) If the administrative regulation is not amended as a result of the public hearing, or written or oral comments received, the administrative body shall file the original and five (5) copies of the statement of consideration as required by subsection (2) of this section with the regulations compiler by noon on the fifteenth day following the hearing.~~

~~(b) If the statement of consideration is not forwarded to the regulations compiler at least ten (10) working days prior to a meeting of the Administrative Regulation Review Subcommittee, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.~~]

(6) If the administrative regulation is amended pursuant to subsection (3) of this section***,*** the full text of the administrative regulation shall be published in the Administrative Register. The administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee after such publication.

(7) If requested, copies of the statement of consideration shall be made available by the promulgating administrative body to persons attending the hearing or submitting comments.

Section 15. KRS 13A.290 is amended to read as follows:

(1) Except as provided by KRS 158.6471 and 158.6472, within forty-five (45) days after publication of an administrative regulation in "The Administrative Register," or within ***sixty (60)***[~~forty-five (45)~~] days of the receipt of a statement of consideration, the Administrative Regulation Review Subcommittee shall meet to review the administrative regulation.

(2) The meetings shall be open to the public.

(3) Public notice of the time, date, and place of the Administrative Regulation Review Subcommittee meeting shall be given in the Administrative Register.

(4) A representative of the administrative body promulgating the administrative regulation under consideration shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the administrative body with authority to amend the administrative regulation is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(5) Following the meeting and before the next regularly scheduled meeting of the Commission, the Administrative Regulation Review Subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The Administrative Regulation Review Subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has reviewed. One (1) copy thereof shall be sent to the promulgating agency. The Administrative Regulation Review Subcommittee's findings shall be published in the Administrative Register.

(6) (a) After review by the Administrative Regulation Review Subcommittee, the Commission shall, at its next regularly scheduled meeting, assign the ***administrative regulation***[~~matter~~] to:

1. A subcommittee of appropriate jurisdiction over the subject matter ***of the administrative regulation***; or

2. During a session of the General Assembly, the House of Representatives and Senate standing committees of appropriate jurisdiction over the subject matter ***of the administrative regulation***.

(b) Upon notification of the assignment by the Commission, the legislative subcommittee to which the ***administrative regulation***[~~matter~~] is assigned shall notify the regulations compiler:

1. Of the date, time, and place of the meeting at which it will consider the ***administrative regulation***[~~matter~~]; or

2. That it will not meet to consider the ***administrative regulation***[~~matter~~].

(7) Within thirty (30) days of the assignment, the subcommittee ***may***[~~shall~~] hold a public meeting during which the regulation shall be reviewed. If the thirtieth day of the assignment falls on a Saturday, Sunday, or holiday, the deadline for review shall be the workday following the Saturday, Sunday, or holiday. The subcommittee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3). Notice of the time, date, and place of the meeting shall be placed in the legislative calendar.

(8) Except as provided in subsection (9) of this section, a subcommittee shall be empowered to make the same nonbinding determinations and to exercise the same authority as the Administrative Regulation Review Subcommittee.

(9) During a session of the General Assembly, standing committees of the Senate and House of Representatives shall agree in order to amend an administrative regulation or to find an administrative regulation deficient pursuant to KRS 13A.030(2) and (3) by:

(a) Meeting separately; or

(b) Meeting jointly. If the standing committees meet jointly, it shall require a majority vote of Senate members voting and a majority of House members voting in order to take action on the administrative regulation.

(10) (a) Upon adjournment of the meeting at which a legislative subcommittee has considered an administrative regulation pursuant to subsection (7) of this section, the subcommittee shall inform the regulations compiler of its findings, recommendations, or other action taken on the administrative regulation.

(b) Following the meeting and before the next regularly scheduled meeting of the Commission, the subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. One (1) copy thereof shall be sent to the promulgating agency. The subcommittee's findings shall be published in the Administrative Register.

Section 16. KRS 13A.300 is amended to read as follows:

(1) The administrative body which has promulgated an administrative regulation may request at a meeting of a subcommittee that consideration of the administrative regulation be deferred by the subcommittee. Upon receipt of the request, the subcommittee may defer consideration of the administrative regulation.

(2) A subcommittee may request that consideration of an administrative regulation be deferred by the promulgating administrative body. Upon receipt of the request, the promulgating administrative body may agree to defer consideration of the administrative regulation.

(3)[~~Except as provided in subsections (1) and (2) of this section, neither the promulgating administrative body, the Commission, nor a subcommittee shall defer any action which is required to be taken pursuant to this chapter.~~

~~(4)~~] An administrative regulation that has been deferred shall be placed on the agenda of the next scheduled meeting of the subcommittee that is reviewing the administrative regulation. The subcommittee shall consider the administrative regulation as if it had met all other requirements of filing. Repromulgation shall not be required in such cases.

Section 17. KRS 13A.320 is amended to read as follows:

(1) (a) An administrative body may amend an administrative regulation at a subcommittee meeting with the consent of the subcommittee. A subcommittee may amend an administrative regulation at a subcommittee meeting with the consent of the administrative body.

(b) An administrative regulation shall not be amended at a public meeting of a subcommittee unless the amendment concerns an issue that was related to the administrative regulation filed with the Legislative Research Commission and was:

1. Considered at the public hearing; or

2. Raised pursuant to a[~~ written~~] comment received by the administrative body ***at the public hearing or during the public comment period*** pursuant to KRS 13A.280(1); or

3. Raised by the subcommittee.

(c) Nothing in this chapter shall be construed to require its resubmission or refiling or other action. The administrative regulation may be adopted as amended.

(d) Subsequent to its adoption, the administrative regulation shall be published in the Administrative Register, unless all amendments to the administrative regulation that were made at a meeting of a subcommittee:

1. Relate only to the format and drafting requirements of KRS 13A.220(5) and 13A.222(4)(b), (c), (i), (j), and

(k); and

2. Do not alter the intent, meaning, conditions, standards, or other requirements of the administrative regulation.

(e) If the amendments to an administrative regulation made at a meeting of a subcommittee meet the requirements of paragraph (d) of this subsection, the regulations compiler shall publish a notice in the Administrative Register that the administrative regulation was amended at a subcommittee meeting only to comply with the format and drafting requirements of this chapter.

(2) When an administrative body intends to amend an administrative regulation at a meeting of the subcommittee, the following requirements shall be met:

(a) Amendments offered by the administrative body to resolve issues raised by a subcommittee prior to its meeting shall be approved by the head of the administrative body.

(b) Amendments initiated by the administrative body shall be contained in a letter to the subcommittee. The letter shall:

1. Identify the administrative body;
2. State the number and title of the administrative regulation;
3. Be dated;
4. Be filed with the regulations compiler at least five (5) workdays prior to the meeting of the subcommittee; and
5. Comply with the format requirements in paragraphs (c) and (d) of this subsection.

(c) On separate lines, the amendment shall be identified by the number of the:

1. Page;
2. Section, subsection, paragraph, subparagraph, ***clause, or subclause,*** as appropriate; and
3. Line.

(d) 1. If a word or phrase, whether or not underlined, is to be deleted, the amendment shall identify the word or phrase to be deleted and state that it is to be deleted. If a word or phrase is to be replaced by another word or phrase, the amendment shall specify the word or phrase that is to be deleted and shall specify the word or phrase that is to be inserted in lieu thereof.

2. If new language is to be inserted, the amendment shall state that it is to be inserted, and the new language shall be underlined.

3. If the amendment consists of no more than four (4) words, the words shall be placed between quotation marks. If the amendment consists of more than four (4) words, the amendment shall be indented and not placed between quotation marks.

4. If a section, subsection, paragraph, subparagraph, clause, or subclause is to be deleted in its entirety, the amendment shall identify it and state that it is deleted in its entirety, whether or not it contains underlined or bracketed language.

(3) An administrative body shall submit twenty (20) copies of an amendment to an administrative regulation to the regulations compiler prior to the ***Administrative Regulation Review*** Subcommittee meeting at which the amendment will be considered.

SECTION 18. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) Beginning with the 2003 Regular Session, prior to each regular session of the General Assembly, the Legislative Research Commission staff shall draft legislation for introduction in the Senate and the House relating to the administrative regulations found deficient by a subcommittee since the commencement of the previous regular session of the General Assembly.

(2) The legislation specified in subsection (1) of this section shall:

(a) Identify the deficient administrative regulations and provide that they shall be null, void, and unenforceable as of the effective date of the legislation;

(b) Prohibit an administrative body from promulgating an administrative regulation that is identical to or substantially the same as the administrative regulation declared void for a period of one (1) year from the date of sine die adjournment of the regular session of the General Assembly at which the legislation is enacted; and

(c) Contain an emergency clause that shall specify that the legislation takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law. The title of the legislation shall indicate that the legislation declares an emergency.

(3) The Senate bill shall be delivered to the President of the Senate and the House bill shall be delivered to the Speaker of the House of Representatives, who shall each introduce the proposed legislation on the first day of the regular session in his or her respective chamber.

(4) The General Assembly may amend either or both bills to:

(a) Include an additional administrative regulation; or

(b) Delete an administrative regulation.

Section 19. KRS 13A.335 is amended to read as follows:

(1) An administrative regulation found deficient by a subcommittee shall not ***be automatically included in the legislation proposed under Section 18 of this Act***[~~expire~~] if:

(a) A subsequent amendment of that administrative regulation is filed with the Commission by the administrative body;

(b) The subcommittee that found the administrative regulation deficient approves a motion that the subsequent amendment corrects such deficiency; and

(c) Any subcommittee that reviews the administrative regulation under the provisions of KRS Chapter 13A finds that the administrative regulation is not deficient.

(2) An administrative regulation found deficient by the Administrative Regulation Review Subcommittee shall not ***be automatically included in the legislation proposed under Section 18 of this Act***[~~expire~~] if:

(a) The administrative regulation is amended to correct the deficiency at a meeting of the subcommittee to which it was assigned by the Commission;

(b) That subcommittee does not determine that the administrative regulation is deficient for any other reason; and

(c) The Administrative Regulation Review Subcommittee approves a motion that the deficiency has been corrected and that the administrative regulation should not ***be automatically included in the legislation proposed under Section 18 of this Act***[~~expire~~].

(3) An administrative regulation found deficient by a subcommittee shall not ***be automatically included in the legislation proposed under Section 18 of this Act***[~~expire~~] if the subcommittee:

(a) Reconsiders the administrative regulation and its finding of deficiency; and

(b) Approves a motion that the administrative regulation is not deficient.

(4) (a) If an existing administrative regulation has been amended and found deficient by a subcommittee, it shall not ***be automatically included in the legislation proposed under Section 18 of this Act***[~~expire~~] if the:

1. Administrative regulation was found deficient due to the amendment;

2. Promulgating administrative body has withdrawn the proposed amendment of the existing administrative regulation; and

3. Regulations compiler has not received the Governor's determination pursuant to KRS 13A.330 or 13A.331.

(b) If an administrative regulation has been found deficient by a subcommittee, the regulations compiler shall add the following notice to the administrative regulation: "This administrative regulation ***has been found deficient by a subcommittee of the General Assembly and may be declared void by the General Assembly pursuant to Section 18 of this Act at the next regular session following adoption of the administrative regulation***[~~shall expire on adjournment of the next regular session of the General Assembly~~]." This notice shall be the last section of the administrative regulation.

(c) If an administrative regulation has been found deficient by a subcommittee, subsequent amendments of that administrative regulation filed with the Commission shall contain the notice provided in paragraph (b) of this subsection.

(d) If an administrative regulation that has been found deficient by a subcommittee has been amended and determined not to be deficient under the provisions of this section, ***or if the administrative regulation is not declared void pursuant to Section 18 of this Act at the next regular session after the administrative regulation's adoption,*** the regulations compiler shall delete the notice required by paragraph (b) of this subsection.

Section 20. KRS 158.6471 is amended to read as follows:

(1) Within forty-five (45) days after publication of an administrative regulation in "The Administrative Register" or within ***sixty (60)***[~~forty-five (45)~~] days of the receipt of a statement of consideration, the Education Assessment and Accountability Review Subcommittee shall meet to review the administrative regulation.

(2) The meetings shall be open to the public.

(3) Public notice of the time, date, and place of the subcommittee meeting shall be given in The Administrative Register.

(4) A representative of the Department of Education shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the Department of Education is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(5) Following the meeting and before the next regularly scheduled meeting of the Legislative Research Commission, the subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in

writing. The subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has reviewed. One (1) copy shall be sent to the Department of Education. The subcommittee's findings shall be published in The Administrative Register.

(6) (a) After review by the subcommittee, the Commission shall at its next regularly scheduled meeting assign the matter as appropriate to the Interim Joint Committee on Education, the Senate standing Education Committee, the House standing Education Committee, or the Senate and the House standing committees meeting jointly.

(b) Upon notification of the assignment by the Commission, the Education Committee shall notify the regulations compiler:

1. Of the date, time, and place of the meeting at which it will consider the matter; or

2. That it will not meet to consider the matter.

(7) Within thirty (30) days of the assignment, the Education Committee, when it plans to consider an administrative regulation, shall hold a public meeting during which the regulation shall be reviewed. If the thirtieth day of the assignment falls on a Saturday, Sunday, or holiday, the deadline for review shall be the workday following the Saturday, Sunday, or holiday. The committee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3). Notice of the time, date, and place of the meeting shall be placed in the legislative calendar.

(8) The Department of Education shall comply with subsection (4) of this section.

(9) The Education Committee shall be empowered to make the same nonbinding determinations and to exercise the same authority as the ***Administrative Regulation Review*** Subcommittee~~[as provided in KRS 13A.030(2) and (3)]~~.

(10) (a) Upon adjournment of the meeting at which the Education Committee has considered an administrative regulation pursuant to subsection (7) of this section, the committee shall inform the regulations compiler of its findings, recommendations, or other action taken on the administrative regulation.

(b) Following the meeting and before the next regularly scheduled meeting of the Commission, the committee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. One (1) copy shall be sent to the Department of Education. The committee's findings shall be published in The Administrative Register.

Section 21. KRS 194B.050 is amended to read as follows:

(1) The secretary shall formulate, promote, establish, and execute policies, plans, and programs and shall adopt, administer, and enforce throughout the Commonwealth all applicable state laws and all administrative regulations necessary under applicable state laws to protect, develop, and maintain the welfare, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

(2) The secretary shall utilize the Council for Families and Children to review and make recommendations on contemplated administrative regulations. No administrative regulations issued under the authority of the cabinet shall be filed with the Legislative Research Commission unless issued under the authority of the secretary, and the secretary shall not delegate this authority.~~[All administrative regulations prepared within the cabinet shall be attested as to form and legality by the Office of the General Counsel.]~~

(3) Except as otherwise provided by law, the secretary shall have authority to establish by administrative regulation a schedule of reasonable fees, none of which shall exceed one hundred dollars ($100), to cover the costs of annual inspections of efforts regarding compliance with program standards administered by the cabinet. The balance of the account shall lapse to the general fund at the end of each biennium. Fees shall not be charged for investigation of complaints.

Section 22. KRS 199.420 is amended to read as follows:

(1) The secretary shall have the power and authority to ***promulgate***~~[adopt, amend, or rescind]~~ those administrative regulations that the secretary deems necessary or suitable for the proper administration of the functions of the cabinet, including qualification for the receipt of federal funds and for cooperation with other state and federal agencies.~~[These administrative regulations shall become effective in the manner and at the time prescribed by the secretary.]~~

(2) In the administration of KRS 199.420 to 199.670 the secretary shall cooperate to the fullest extent possible with any agency of this state or any other state of the United States.

(3) The secretary is authorized, subject to the provisions of KRS Chapters 12, 18A, 42, 45, and 64, to appoint, fix the compensation, and prescribe the duties and powers of any officers and employees as are necessary in the performance of the secretary's duties under KRS 199.420 to 199.670. All positions shall be filled by persons selected and appointed on a nonpartisan merit basis, in accordance with merit standards established by law. The secretary shall not employ or pay any person who is an officer or committee member of any political party organization. The secretary may delegate to any person so appointed that power and authority as the secretary deems reasonable and proper for the effective administration of KRS 199.420 to 199.670.

(4) The secretary shall have the power and authority to elect coverage for the workers in the cabinet, under the provisions of

KRS Chapter 341, and may elect coverage for these workers under the workers' compensation law of this state. In the event the coverage is elected the payment of contributions under KRS Chapter 341 and premiums under the workers' compensation law shall be deemed a proper cost of administration.

(5) The salaries and expenses of the secretary and the secretary's staff shall be considered a proper cost of administration and charged to the funds allocated to the Cabinet for Families and Children.

SECTION 23. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) Each executive order issued by the Governor after the effective date of this Act shall be:

(a) Identified by one (1) and only one (1) of the following subject areas:

1. Appointments requiring confirmation;

2. Appointments not requiring confirmation;

3. Matters of a ceremonial or honorary nature;

4. Approvals of legal employment or contract under KRS 12.210;

5. Matters relating to criminal justice and corrections;

6. Reorganizations of state government;

7. Declarations of a state of emergency or issuance of state active duty orders; or

8. Other matters pertaining to the operation or official policy of the government of Kentucky; and

(b) Numbered in a manner to identify the year in which the order is issued, the subject area specified in paragraph (a) of this subsection, and, within each subject area, numbered in consecutive numerical order by date of issuance; and

(c) Filed with the Secretary of State.

(2) The Secretary of State shall forward a copy of each executive order listed in subparagraph 1., 6., or 8. of subsection (1)(a) of this section to the director of the Legislative Research Commission on the day the order is filed.

(3) Any executive order identified by the subject area listed in subparagraph 8. of subsection (1)(a) of this section shall not become effective until fifty (50) days after the order is filed with the Secretary of State. The co-chairs of the Legislative Research Commission shall refer each of these executive orders to the House or Senate standing committee during legislative sessions, the interim joint committee or other subcommittee of the Legislative Research Commission, or the statutory committee of the Legislative Research Commission or General Assembly with jurisdiction over the subject matter of the executive order. The co-chairs of the Legislative Research Commission shall refer each executive order specified in this subsection to a committee within two (2) working days after the director of the Legislative Research Commission receives the order. The committee to which an order is referred shall review the order within forty-five (45) days following referral by the co-chairs of the Legislative Research Commission. The reviewing committee shall report its findings and objections, if any, to the Legislative Research Commission for transmittal to the General Assembly when next convened. An objection reported to the Legislative Research Commission by the reviewing committee shall be upon the vote of a majority of the committee members.

(4) Prior to each regular session of the General Assembly, the Legislative Research Commission staff shall draft legislation for introduction relating to executive orders identified as pertaining to the operation or official policy of the government of the Commonwealth of Kentucky since the commencement of the previous regular session of the General Assembly and which have been objected to by a committee under this section.

(a) The legislation specified in this subsection shall:

1. Identify each executive order and provide that they shall be null, void, and unenforceable as of the effective date of the Act;

2. Prohibit the Governor from adopting an executive order that is identical to or substantially the same as the executive order declared void for a period of one (1) year from sine die adjournment of the legislative session in which the legislation is enacted; and

3. Contain an emergency clause that shall specify that the legislation takes effect upon its passage and approval by the Governor or upon its otherwise becoming law. The title of the legislation shall indicate that the legislation declares an emergency.

(b) The draft legislation specified in this subsection shall be delivered to the President of the Senate and the Speaker of the House of Representatives.

(5) Not later than September 30, 2002, the Governor shall compile a list of all executive orders currently in effect and relating to the subject area specified in subparagraph 8. of subsection (1)(a) of this section. The Governor shall provide the list to the Legislative Research Commission. On the list, the Governor shall identify those executive orders that should remain in effect and those executive orders that he shall revoke or repeal because they are unnecessary or obsolete. Any executive order that the Governor does not continue in effect or revoke or repeal effective on another date shall expire as of October 1, 2002.

SECTION 24. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

(1) Each administrative body created by an executive order shall expire on sine die adjournment of the next odd-numbered year regular session of the General Assembly following the end of the final term of office of the Governor who issued the executive order unless, prior to that date, the administrative body is:

(a) Established by enactment of the General Assembly; or

(b) Reestablished or abolished by official action of the next succeeding Governor.

(2) Each administrative body created by a statewide elected official other than the Governor shall expire on sine die adjournment of the next odd-numbered year regular session of the General Assembly following the end of the final term of office of the official who created the administrative body unless the administrative body is:

(a) Established by enactment of the General Assembly; or

(b) Reestablished or abolished by official action of the next succeeding official.

(3) Each administrative body created by an administrative order shall expire on sine die adjournment of the next odd-numbered year regular session of the General Assembly following the end of the final term of office of the Governor whose appointee created the administrative body unless the administrative body is:

(a) Established by enactment of the General Assembly; or

(b) Reestablished or abolished by official action of the next succeeding official.

SECTION 25. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

(1) Not later than January 1, 2003, the Secretary of State shall develop and implement a system for storing, indexing, and providing public access to executive orders of the Governor by electronic means.

(2) The Governor's Office for Technology shall provide any and all assistance requested by the Secretary of State to assure that the provisions of subsection (1) of this section shall be implemented.

Section 26. KRS 12.028 is amended to read as follows:

(1) Recognizing the necessity for grouping related functions of organizational units and administrative bodies in order to promote greater economy, efficiency and improved administration, the Governor, the Kentucky Economic Development Partnership as created in KRS 154.10-010, and other elected state executive officers may propose to the General Assembly, for its approval, changes in the state government organizational structure which may include the creation, alteration or abolition of any organizational unit or administrative body and the transfer of functions, personnel, funds, equipment, facilities, and records from one (1) organizational unit or administrative body to another.

(2) Recognizing that changes in the state government organizational structure may need to be made as rapidly as possible to achieve greater economy, efficiency, and improved administration as the needs of government dictate, the Governor, the Kentucky Economic Development Partnership as created in KRS 154.10-010, and other elected state executive officers may, between sessions of the General Assembly, temporarily effect a change in the state government organizational structure as described in subsection (1) of this section if such temporary reorganization plan is first reviewed by the interim joint legislative committee with appropriate jurisdiction. The Governor may not effect a temporary reorganization plan under this subsection that would change the organizational structure of an organizational unit or administrative body headed by the Kentucky Economic Development Partnership as created in KRS 154.10-010, or another elected state executive officer unless requested in writing by that officer. An elected state executive officer other than the Governor may only change the organizational structure of an organizational unit or administrative body that he heads.

(3) Any reorganization proposed under subsection (1) or (2) of this section shall be set forth in a reorganization plan which shall be filed with the Legislative Research Commission. The plan shall include:

(a) An explanation of each proposed change, including the need for the change;

(b) An estimate of any reduction or increase in expenditures, itemized as far as practicable, which the promulgating officer expects will result from the reorganization;

(c) A description of any improvements in the management, delivery of state services, and efficiency of state government operations which the promulgating officer expects will be realized as a result of the reorganization; and

(d) Specification of the effects of the reorganization on the budget and personnel of each affected organizational unit or administrative body, including but not limited to the amount of funds and the number of employees that will be transferred from one (1) organizational unit or administrative body to another, any reductions in the state work force resulting from the reorganization, and the methods to be utilized to achieve such reductions.

(4) When a proposed reorganization plan is submitted for review under subsection (2) of this section the presiding co-chairman of the Legislative Research Commission shall determine which interim joint legislative committee has appropriate jurisdiction and shall refer the plan to such committee within ***two (2) working***[~~ten (10)~~] days after the director of the Legislative Research Commission receives the proposal. The interim joint legislative committee to which it is referred shall review the plan to determine whether the plan can reasonably be expected to achieve greater economy, efficiency or improved administration in state government. The committee shall report its findings to the Legislative Research Commission. The committee shall review and report on the plan within ***forty-five (45)***[~~sixty (60)~~] days after it is ***referred by the presiding co-chair of***[~~filed with~~] the Legislative Research Commission. If the committee does not report

on a proposed plan within the time specified in this subsection, the plan shall be considered reviewed by the interim joint legislative committee with appropriate jurisdiction.

(5) A temporary reorganization effected under subsections (2) to (4) of this section shall be terminated ninety (90) days after sine die adjournment of the next regular session of the General Assembly unless otherwise specified by the General Assembly. The Governor, the Kentucky Economic Development Partnership as created in KRS 154.10-010, or other officer who promulgated a temporary reorganization plan under this section shall recommend legislation to the General Assembly to confirm the temporary reorganization plan. The subject matter of each executive order relating to reorganization shall be presented to the General Assembly in a separate bill. If the General Assembly fails to enact the temporary reorganization plan or an alternative to such plan, the organizational structure that existed immediately prior to the implementation of the temporary plan shall be reinstated upon the termination of the temporary plan. If the General Assembly fails to enact a temporary reorganization plan, the Governor, the Kentucky Economic Development Partnership as created in KRS 154.10-010, and other elected state executive officers shall not effect the plan prior to the next succeeding session of the General Assembly.

(6) The Legislative Research Commission or the legislative program review and investigations committee may monitor the implementation of any reorganization plan to determine the extent to which the anticipated improvements in economy, efficiency, or administration have been realized as a result of the reorganization and shall report its findings to the General Assembly.

(7) Funds transferred due to reorganization shall be maintained in separately designated accounts. Any excess funds resulting from a reorganization shall lapse to the general fund surplus account.

SECTION 27. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

It is the intent of the General Assembly to encourage county governments to perform at the highest levels of efficiency and economy while providing the highest standards of governmental services possible to their citizens. It is also the belief of the General Assembly that, in order to attain these high standards of efficiency, economy, and service and to ensure the ongoing improvement in the quality of life of all citizens of the Commonwealth, all county governments must be permitted by the action of their fiscal courts or at the request of their citizens to consider consolidation with adjoining counties for these purposes. The General Assembly, in support of those counties that take action to consolidate, further intends to provide financial and technical assistance for those counties through legislative action in order to ease the transitions brought by consolidation.

SECTION 28. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Any two (2) or more adjoining counties may consolidate.

(2) (a) An action to consolidate a county may be initiated by:

1. The adoption of an ordinance by a fiscal court stating the intent of the county to consider consolidation with another county or counties; or

2. The petitioning of the fiscal court by residents who are registered voters within the county.

(b) The number of signatures required for a petition to consolidate shall equal twenty percent (20%) of the total number of persons voting in the last presidential election. All petitions shall be certified as sufficient by the county clerk. All petitions shall include the printed name, address, age, and signature of each registered voter signing the petition, and the date of the signature. The petition shall not be circulated for a period of time exceeding one hundred twenty (120) days. If the petition exceeds the one hundred twenty (120) days time frame it shall become void. Any petition containing irregularities shall be returned to the petitioner who shall have ten (10) days to correct the irregularities and resubmit the petition to the county judge/executive for final certification.

(c) Upon receipt of a certified petition or the final adoption of an ordinance stating the intent of a county to consolidate with another county or counties, the county judge/executive in the initiating county shall within ten (10) working days notify by certified mail, return receipt requested, the fiscal courts of the adjoining counties proposed for consolidation and shall notify the residents of those counties by legal public notice of the action taken in the initiating county. If no action is taken within one hundred twenty (120) days from the receipt of the certified letter to present a petition or to enact an ordinance in the adjoining counties which are proposed to be consolidated as provided in paragraphs (a) and (b) of this subsection, the actions in the initiating county shall be considered void.

(3) All ordinances relating to county consolidation shall be adopted in accordance with the provisions of KRS 67.076, 67.077, 67.855, 67A.070, and 67C.103. Upon enactment, the ordinances shall be published in accordance with the provisions of KRS Chapter 424.

(4) (a) If within one hundred twenty (120) days of the public notice in an adjoining county proposed for consolidation, a petition is received or an ordinance is enacted stating the intent of the county to consolidate with a county or counties as provided in subsection (2)(a) and (2)(b) of this section, a special election shall be held within ninety (90) days on the same day within each county, to determine the will of the people in each separate county.

(b) The county judge/executive shall in each county proposed for consolidation deliver a certified copy of the enacted ordinance or the final certified petition to the county clerk of the county in which the election is to be

held. The county clerk in each county proposed for consolidation shall prepare the following question to be placed before the voters: "Are you in favor of being consolidated with the county (or counties) of .... which will form a new county?" The advertisement of the election by the sheriff shall be in accordance with KRS 242.040. The advertisement shall include the date of the election and the question to be voted upon.

(c) If a simple majority of those persons voting in each county vote in favor of the consolidation, the counties shall become consolidated. If less than a simple majority of those persons voting in each county favor the consolidation, then the issue of consolidation will become void for all purposes in each county.

(5) All general costs associated with the conduct of special elections relating to a proposed consolidation of counties shall be paid by the state. The publication costs for legal public notice of the election and the costs for legal public notices in adjoining counties proposed for consolidation as required in subsection (2)(c) of this section shall be considered a general cost of the election, but no other advertising shall be paid for by state funds.

(6) Upon certification of an affirmative action to consolidate counties, no further action shall be made to alter the territory of the newly consolidated county for a period of ten (10) years.

SECTION 29. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The fiscal court of any new county created by the consolidation of two (2) or more counties shall not take any legal action until the expiration of the current terms of office of all elected county officials holding office when the counties were consolidated and the election and certification of the officials of the newly consolidated county. The officers of the newly consolidated county shall be elected and take office in the same manner and at the same time as other elected county officials.

SECTION 30. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Upon certification of an election to consolidate counties, the county judge/executive of each county shall, within thirty (30) days after the certification, appoint six (6) voters from the county to serve as members of a transition committee for the purpose of dividing the area of the new county into districts for the election of members of the fiscal court for the new county. The appointments for each county shall be made so that they reflect as closely as possible the ratio of each of the two (2) major political parties to the total county population. The committee members representing each county shall begin meeting jointly within fifteen (15) days after their appointment and proceed to divide the area of the new county into not less than three (3) nor more than eight (8) magisterial districts, each to be as nearly equal in area and population as possible. The committee shall also select not fewer than two (2) names nor more than five (5) names for the new county, which shall be submitted to the voters for their selection at the same time as the election for the members of the new fiscal court. The report of the transition committee shall be filed with the county judge/executive of each consolidating county not less than sixty (60) days after the appointment of the members. The members of the transition committee shall select a chairman from among themselves to preside over the meetings of the group.

(2) If, at the expiration of sixty (60) days after the initial meeting of the transition committee, a majority of the members have failed to agree upon the selection of the names for the proposed county or fail to agree upon a plan to divide the new county into magisterial districts, the Governor shall appoint an additional person to act as chairman of the committee. The Governor's appointee shall not vote on any question except in the case of a tie vote, to aid in the selection of the potential new county names, the formation of magisterial districts, or any other relevant issue for the ballot. The report of the committee shall be filed with the county judge/executive of each county not less than thirty (30) days after appointment of the new chairman.

SECTION 31. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) All taxes in effect in each county in the fiscal year immediately preceding the beginning of the term of the new fiscal court shall remain in effect until action is taken to change or remove them by the new fiscal court.

(2) The territory formerly embraced within each of the previously existing counties is hereby made into a separate special taxing district for the repayment of financial obligations and debts of the previously existing counties. The new fiscal court has the power to levy and collect taxes in these special taxing districts in addition to its other powers to levy and collect taxes. The separate debt of each special taxing district shall be a first lien on the territory formerly embraced within that previously existing county. The money collected as taxes for each of the special taxing districts shall be kept separate and shall first be used as payment of the debts of the previously existing county that formerly embraced the territory of that specific taxing district. The special taxing district shall cease to exist upon repayment of all debts and financial obligations of the previously existing county.

(3) Any surplus funds in existence in a county on the date of a consolidation shall be spent in the territory of the previously existing county in which the surplus funds were raised. The surplus funds shall first be expended towards the regular repayment of any financial obligations or debts of the territory formerly embraced within each of the previously existing counties that were to be paid in full within five (5) years. The schedule for the repayment of debts or financial obligations that were contracted for a period of more than five (5) years shall be at the discretion of the newly formed county. Any surplus funds remaining after the payment of obligations and debts shall be spent by the fiscal court of the newly formed county in the territory of the previously existing county from which the taxes were collected.

SECTION 32. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Voters shall select the county seat of the newly consolidated county from one (1) of the previously existing county seats. The question on the selection of the new county seat shall be submitted to the voters at the same time as the election for the *members of the new fiscal court and the selection of the name for the newly consolidated county. The county seat shall remain at this location for a period of no less than ten (10) years after which time the citizens may remove the county seat only as provided by KRS 67.020. The remaining county government buildings in the county seats of the previously existing counties shall be maintained as branch offices of the newly formed counties for a period of no less than ten (10) years after which the fiscal court may make a decision as to their necessity and use.*

SECTION 33. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Where the previously existing counties were in the same representative, senatorial, judicial circuit, or congressional district or districts, the newly consolidated county shall remain in the same district or districts. Where the previously existing counties were not in the same judicial circuit or judicial district, the newly consolidated county shall be placed in the same district in which the previously existing county which had the largest population was located. If each of the previously existing counties was a separate district, the new county shall be divided into such districts, each district to be contiguous with the boundary lines of the previously existing counties.

SECTION 34. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The Department for Local Government shall promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A to guarantee the awarding of preference points on applications for Small Cities Community Development Block Grant funds made by newly consolidated counties. The Department for Local Government shall provide technical and advisory assistance to newly consolidated counties. Funds awarded under this provision shall be expended in compliance with all state and federal guidelines governing those funds.

SECTION 35. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

Shelby County is designated as the official Saddlebred Capital of Kentucky.

Section 36. The following KRS sections are repealed:

13A.015 Notice of intent to promulgate an administrative regulation -- Public hearing.

13A.016 KRS 13A.015 inapplicable to administrative regulation promulgated only for drafting or format requirements.

13A.017 Consideration of comments from public hearing -- Post-hearing filings or notification.

67.190 Petition for consolidation of counties -- Notice.

67.200 New petition when petition not filed in time.

67.210 Order for election on question of consolidation.

67.220 Advertisement of election.

67.230 General election laws to apply.

67.240 Certification of results of election -- Appointment of commissions to lay off justices' districts and select choice of names and county seats.

67.250 Report of commissions -- Election of officers for new county.

67.260 Election to choose name and county seat of new county -- Period between elections on consolidation.

67.270 Debts of old counties -- Separate taxes to pay.

67.280 Assignment of new county to various election districts.

67.290 Records and property of old counties.

67.310 Disposition of county administrative agencies.

Section 37. A person who has previously filed the form required by KRS 13A.015(4) with an administrative body shall be deemed to have fulfilled the requirement established by subsection (3) of Section 13 of this Act. Upon the effective date of this Act, the administrative body shall include any such person in the provisions established pursuant to subsection (3) of Section 13 of this Act.

Section 38. (1) Notices of intent filed prior to the effective date of this Act shall expire on the effective date of this Act.

(2) Emergency administrative regulations in effect prior to the effective date of this Act shall remain in effect as provided by subsection (5) of Section 8 of this Act.

The Committee Amendment No. 1 Title to **SB 33** is as follows:

SB 33, By changing the title to "AN ACT relating to governmental actions.".

SB 156, AN ACT relating to the Kentucky Law Enforcement Council.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.315 is amended to read as follows:

The Kentucky Law Enforcement Council is hereby established as an independent administrative body of state government to be made up as follows:

(1) The Attorney General of Kentucky, the commissioner of the Department of State Police, directors of the Southern Police Institute of the University of Louisville, the dean of the College of Law Enforcement of Eastern Kentucky University, the president of the Kentucky Peace Officers Association, the president of the Kentucky Association of Chiefs of Police, and the Kentucky president of the Fraternal Order of Police, ***and the president of the Kentucky Sheriffs' Association*** shall be ex officio members of the council, as full voting members of the council by reason of their office. The Kentucky special agent in charge of the Federal Bureau of Investigation shall serve on the council in an advisory capacity only without voting privileges. Each ex officio member may designate in writing a person to represent him ***or her*** and ***to*** vote on his ***or her*** behalf.

(2) ***Eleven (11)***[~~Nine (9)~~] members shall be appointed by the Governor for terms of four (4) years from the following classifications: a city manager or mayor, ***three (3)***[~~one (1)~~] Kentucky ***sheriffs***[~~sheriff~~], a member of the Kentucky State Bar Association, five (5) chiefs of police, and a citizen of Kentucky not coming within the foregoing classifications. No person shall serve beyond the time he ***or she*** holds the office or employment by reason of which he ***or she*** was initially eligible for appointment. Vacancies shall be filled in the same manner as the original appointment and the successor shall be appointed for the unexpired term. Any member may be appointed for additional terms.

(3) No member may serve on the council with the dual membership as the representative of more than one (1) of the aforementioned groups or the holder of more than one (1) of the aforementioned positions. In the event that an existing member of the council assumes a position entitling him to serve on the council in another capacity, the Governor shall appoint an additional member from the group concerned to prevent dual membership.

(4) Membership on the council does not constitute a public office, and no member shall be disqualified from holding public office by reason of his membership.

Section 2. KRS 15.320 is amended to read as follows:

The business of the council shall be conducted in the following manner:

(1) The council at its initial meeting to be held promptly after the appointment of its members, shall elect a chairman and vice chairman from among its members who shall serve until the first meeting in the succeeding year. Thereafter, the chairman and vice chairman shall be elected at the first meeting of each calendar year.

(2) ***Ten (10)***[~~Seven (7)~~] members of the council shall constitute a quorum for the transaction of business.

(3) The council shall maintain minutes of its meetings and such other records as it deems necessary.

(4) The council shall report at least annually to the Governor and to the General Assembly as to its activities.

SB 267, AN ACT relating to the flag of the Commonwealth of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 2.030 is amended to read as follows:

(1) The official state flag of the Commonwealth of Kentucky shall be of navy blue silk, nylon, wool or cotton bunting, or some other suitable material, with the seal of the Commonwealth encircled by a wreath, the lower half of which shall be goldenrod in bloom and the upper half the words "Commonwealth of Kentucky," embroidered, printed, painted or stamped on the center thereof. The dimensions of the flag may vary, but the length shall be one and nine-tenths (1 9/10) times the width and the diameter of the seal and encirclement shall be approximately two-thirds (2/3) the width of the flag.

(2) The approved official drawings of the state flag shall be permanently retained in the files of the office of the Secretary of State. All state flags for official use of the Commonwealth shall conform as to color and design with these official drawings.

(3) The emblem at the head of a flagstaff used to display the flag of the Commonwealth of Kentucky shall be the Kentucky cardinal in an alert but restful pose, cast in bronze, brass or other suitable material.

(4) The flying of the state flag at all state buildings and installations including public school buildings, National Guard armories, state parks and other such buildings is considered proper and is encouraged.

(5) No disrespect should be shown to the flag of the Commonwealth of Kentucky. With the exception of the flag of the United States of America, the flag of the Commonwealth of Kentucky should not be dipped to any person or thing. The flag should never touch anything beneath it, such as the ground, the floor, water, or merchandise. The flag, when it is in such condition that it is no longer a fitting emblem for display, should be destroyed in a dignified way, preferably by burning.

SB 271, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 21.580 is amended to read as follows:

(1) As a pilot project to determine the effectiveness of using senior retired judges to combat backlog and delay in Kentucky

courts, there is hereby created a "Senior Status Program for Special Judges." The program shall be implemented as follows:

(a) KRS 21.400(1) and any other provision in KRS Chapter 21 to the contrary notwithstanding, a member who retires at a time when combining his total years of judicial service credit and his age equals or exceeds the number seventy-five (75), may elect, within ninety (90) days following retirement, to participate in the "Senior Status Program for Special Judges," if he complies with the provisions of this subsection. In that event, the member shall be entitled to a service retirement allowance, commencing at the member's normal retirement age, payable monthly during his lifetime in an amount equal to five percent (5%) of his final compensation multiplied by the number of years of his judicial service, not to exceed twenty (20) years of judicial service at the five percent (5%) factor, not to exceed one hundred percent (100%) of final compensation. "Final compensation" is as defined in KRS 21.400. Any nonjudicial time shall be counted as is otherwise provided in KRS Chapter 21, but in no event shall service retirement allowance exceed one hundred percent (100%) of final compensation.

1. In the event the retiring judge elects to retire as a "Senior Status Special Judge" under this subsection, he shall commit to serve, upon appointment by the Chief Justice of the Commonwealth, as special judge for one hundred twenty (120) work days per year for a term of five (5) years without compensation other than the retirement benefits under this subsection. The Senior Status Special Judge may agree to work more than one hundred twenty (120) days in any year within the five (5) years of service; however, the Senior Status Special Judge shall be compensated as otherwise provided by law, in addition to his retirement benefits, for any days served in excess of one hundred twenty (120) in that year. If the Senior Status Special Judge has not served a total of six hundred (600) days within the five (5) year period outlined in this subsection, the Chief Justice shall require the Senior Status Special Judge to serve at no additional compensation to the Senior Status Special Judge, until the six hundred (600) day period is served by the Senior Status Special Judge. The Senior Status Special Judge and the Chief Justice may agree in writing to serve less than the one hundred twenty (120) days in any one (1) or more of the five (5) years; however, any of the days not served in a given year shall be served at the end of the five (5) year period set forth in this subsection.

2. Should any member electing to retire under the Senior Status Program for Special Judges fail, when ordered by the Chief Justice to serve the requisite number of days not to exceed one hundred twenty (120) days a year for the five (5) year period outlined in this subsection, unless otherwise agreed in writing, he shall no longer be eligible for benefits computed under this subsection and shall return to the benefits otherwise provided under this chapter.

3. Subject to Section 110(5)(b) of the Kentucky Constitution, the Chief Justice shall give due regard, when practical, to the desirability of appointing Senior Status Special Judges to serve within their judicial region as defined by the regional administration charter.

(b) The inviolable contract provisions of Kentucky law, KRS 21.480, shall apply during the period of time that KRS 21.580 is effective; however, no other provisions of 2000 Ky. Acts ch. 305 shall be considered subject to an inviolable contract of the Commonwealth.

(c) Nothing contained in this section shall be construed to invalidate provisions in the current law which require a penalty for retiring before the normal retirement age.

(2) The Senior Status Program for Special Judges created by this section shall be open to any member who is a judge in office on July 14, 2000, and who subsequently retires as a Senior Status Special Judge on or before ***January 31, 2009***[~~June 30, 2007~~].

The Committee Substitute to **SB 271** is as follows:

SB 271, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 21.580 is amended to read as follows:

(1) As a pilot project to determine the effectiveness of using senior retired judges to combat backlog and delay in Kentucky courts, there is hereby created a "Senior Status Program for Special Judges." The program shall be implemented as follows:

(a) KRS 21.400(1) and any other provision in KRS Chapter 21 to the contrary notwithstanding, a member who retires at a time when combining his total years of judicial service credit and his age equals or exceeds the number seventy-five (75), may elect, within ninety (90) days following retirement, to participate in the "Senior Status Program for Special Judges," if he complies with the provisions of this subsection. In that event, the member shall be entitled to a service retirement allowance, commencing at the member's normal retirement age, payable monthly during his lifetime in an amount equal to five percent (5%) of his final compensation multiplied by the number of years of his judicial service, not to exceed twenty (20) years of judicial service at the five percent (5%) factor, not to exceed one hundred percent (100%) of final compensation. "Final compensation"***, notwithstanding any provision to the contrary, for all members retiring under any provision of KRS 21.345 to 21.570 or this section,***

or similar statutes governing the same positions,[~~is~~] as defined in KRS 21.400 ***shall be based on a period of thirty-six (36) months***. Any nonjudicial time shall be counted as is otherwise provided in KRS Chapter 21, but in no event shall service retirement allowance exceed one hundred percent (100%) of final compensation.

1. In the event the retiring judge elects to retire as a "Senior Status Special Judge" under this subsection, he shall commit to serve, upon appointment by the Chief Justice of the Commonwealth, as special judge for one hundred twenty (120) work days per year for a term of five (5) years without compensation other than the retirement benefits under this subsection. The Senior Status Special Judge may agree to work more than one hundred twenty (120) days in any year within the five (5) years of service; however, the Senior Status Special Judge shall be compensated as otherwise provided by law, in addition to his retirement benefits, for any days served in excess of one hundred twenty (120) in that year. If the Senior Status Special Judge has not served a total of six hundred (600) days within the five (5) year period outlined in this subsection, the Chief Justice shall require the Senior Status Special Judge to serve at no additional compensation to the Senior Status Special Judge, until the six hundred (600) day period is served by the Senior Status Special Judge. The Senior Status Special Judge and the Chief Justice may agree in writing to serve less than the one hundred twenty (120) days in any one (1) or more of the five (5) years; however, any of the days not served in a given year shall be served at the end of the five (5) year period set forth in this subsection.
2. Should any member electing to retire under the Senior Status Program for Special Judges fail, when ordered by the Chief Justice to serve the requisite number of days not to exceed one hundred twenty (120) days a year for the five (5) year period outlined in this subsection, unless otherwise agreed in writing, he shall no longer be eligible for benefits computed under this subsection and shall return to the benefits otherwise provided under this chapter.
3. Subject to Section 110(5)(b) of the Kentucky Constitution, the Chief Justice shall give due regard, when practical, to the desirability of appointing Senior Status Special Judges to serve within their judicial region as defined by the regional administration charter.

(b) The inviolable contract provisions of Kentucky law, KRS 21.480, shall apply during the period of time that KRS 21.580 is effective; however, no other provisions of 2000 Ky. Acts ch. 305 shall be considered subject to an inviolable contract of the Commonwealth.

(c) Nothing contained in this section shall be construed to invalidate provisions in the current law which require a penalty for retiring before the normal retirement age.

(2) The Senior Status Program for Special Judges created by this section shall be open to any member who is a judge in office on July 14, 2000, and who subsequently retires as a Senior Status Special Judge on or before ***January 31, 2009***[~~June 30, 2007~~].

Section 2. KRS 21.370 is amended to read as follows:

(1) Except as provided in subsection (2) of KRS 21.410 and in subsection (2) of KRS 21.420, no benefits shall be payable under KRS 21.350 to 21.480 to any member or to his surviving spouse, unless he has completed at least eight (8) years of service, including service before becoming a member. No surviving spouse of a retired member shall be entitled to any benefits unless the person was the spouse of the member at the time he retired.

(2) A member who has qualified for benefits under this section may transfer to the Judicial Retirement Plan up to ten (10) years of service credit which he has earned in a retirement system administered by Kentucky Retirement Systems, and he may transfer to the Judicial Retirement Plan up to ten (10) years of service credit which he has earned in the Kentucky Legislators' Retirement Plan. If the member elects to transfer his service credit, the system or plan from which the transfer is made shall transfer to the judicial retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially assumed interest rate of the system or plan from which the transfer is made in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies under KRS 21.400, when he pays the total difference between the amount of the funds transferred and the cost of the credit to the Judicial Retirement Plan, as determined by the actuary for the Judicial Retirement Plan. The member may pay by transfer, if authorized under subsection (5)(d) of this section, or by lump sum or increments as set forth in subsection (4)(b) of this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).

(3) Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan under subsection (1) of this section or KRS 21.375, shall receive service credit for a maximum of four (4) years for his period of service as a city police judge for a city within the Commonwealth of Kentucky, if the service was performed prior to the first Monday in January, 1978, and if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records of the city for which the service was performed. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the

Judicial Retirement Plan, to other service credit earned in the plan. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).

(4) (a) 1. Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan under subsection (1) of this section or KRS 21.375, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system thirty-five percent (35%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan.

2. Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan may purchase and receive service credit for one (1) month of service for each six (6) months of service in the reserves or the National Guard by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question as provided in KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The service in the military reserves or the National Guard shall be treated as service earned prior to participation in the plan. The purchase can be made by the member in a transfer, if authorized under subsection (5)(d) of this section, or by a lump-sum payment or installment payments. The payment shall not be picked up by the employer as provided in KRS 21.360(6).

(b) The beneficiary may purchase military service credit only at one (1) time by lump-sum payment for the amount of service he wishes to purchase, and the payment shall be made within thirty (30) days of the death of the active member. The member may purchase all of his military service credit at one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump-sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump-sum payment of the remaining principal amount, but no further installment payments shall be accepted thereafter. In this case, the member shall be credited with the military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.

(c) The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).

(d) No veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for a military pension in the future, unless the military pension is for service primarily on inactive duty in a reserve component of the Armed Forces, or is a disability pension which does not exceed five hundred dollars ($500) monthly.

(5) ~~[Any provision of law to the contrary notwithstanding, paragraphs (a), (b), (c), and (d) of this subsection shall apply only to applicable officials who are in office on June 21, 2001, and who are in active contributing status to the applicable retirement plan on June 21, 2001.]~~

(a) Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan under subsection (1) of this section or KRS 21.375, shall receive service credit for a maximum of four (4) years each for his period of service as a Domestic Relations Commissioner, a Master Commissioner, or a District Court Trial Commissioner of the Commonwealth of Kentucky, or a combination thereof, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The member may pay by transfer as set forth in paragraph (d) of this subsection, or by lump sum or increments as set forth in subsection (4)(b) of this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).

(b) Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan under subsection

(1) of this section or KRS 21.375, shall receive service credit for his period of service to the United States Government, other than service in the Armed Forces, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The member may pay by transfer as set forth in paragraph (d) of this subsection, or by lump sum or increments as set forth in subsection (4)(b) of this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).

(c) Any member of the Judicial Retirement Plan, ***who is in office on June 21, 2001, and who is in active contributing status to the applicable retirement plan on June 21, 2001, and*** who has at least two hundred forty (240) months of service credit may purchase a combined maximum total of five (5) years retirement service credit that is not otherwise purchasable, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The member may pay by transfer as set forth in paragraph (d) of this subsection, or by lump sum or increments as set forth in subsection (4)(b) of this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).

(d) A member of the Judicial Retirement Plan may purchase service credit under the provisions of this section by transferring funds under the rules in 26 U.S.C. sec. 401(a)(31) directly from a retirement plan or a deferred compensation arrangement maintained by his employer that is a qualified plan under 26 U.S.C. sec. 401(a). Service credit may also be purchased by a rollover of funds from a qualified retirement plan under the rules specified in 26 U.S.C. sec. 402(c). The Judicial Retirement Fund shall accept the transfer or rollover to the extent permitted under the rules specified in 26 U.S.C. secs. 402(c) and 401(a)(31). The amount shall be credited to the individual member's contribution account and shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).

SB 280, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 78.530 is amended to read as follows:

(1) ***(a)*** Each county and school board, as defined in KRS 78.510, will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. In cases where general purpose county government does not participate, but the sheriff and his employees or the county clerk and his employees do, the sheriff or the clerk shall retain the order in his office. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.

(b) Notwithstanding any provision to the contrary, every county fiscal court not participating in the system on July 1, 2002, shall enact a resolution of participation for all general purpose county government employees, including sheriffs and clerks, no later than July 1, 2003.

(2) Once a county or school board participates, it shall thereafter continue to participate, except as provided in KRS 78.535.

(3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employee electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(2), current service credit for employment in regular full-time positions between July 1, 1958, and the participation date of the county. Cities which participate in the system pursuant to subsection (7) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 shall be required to purchase on behalf of each employee electing coverage only as much service credit as the employee has accumulated in the city-administered plan, up to the participation date of the city. Accumulated service shall include service for which an employee received a refund pursuant to KRS 95.620 or 95.866, if such refund has been repaid. If the employee has not yet repaid the refund, he may make payment to the system by any method acceptable to the system, and the requirement of five (5) years of continuous reemployment prior to repayment of refunds shall not apply. Upon the employee's repayment, the city shall purchase the associated service credit for the employee. Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county;

(b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be thirty (30) years, with interest at the rate actuarially assumed by the board. A shorter period is desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period, except that cities which participate in the system pursuant to subsection (7) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 may, at their option, extend the payment schedule to a maximum of thirty (30) years, may choose to make level payments at the interest rate actuarially assumed by the board over the life of the payment schedule chosen, and may retain employer contributions and the earnings thereon attributable to employees electing coverage;

(c) A city entering the system under the alternate participation plan, may, by ordinance, levy a special property tax to pay for current service credit purchased for the period between July 1, 1958, and the participation date of the city. The special tax shall be to pay, within a period of no more than fifteen (15) years, for the cost of such service credit over that which would be funded within the existing employer contribution rate, as determined by the board's consulting actuary. The reason for levying the special tax and the disposition of the proceeds shall be part of the ordinance levying the tax. The special tax shall be rescinded when the unfunded prior service liability has been amortized, and shall not be subject to the provisions of KRS 132.017 or 132.027. In addition, the city may maintain any tax, the proceeds of which had been devoted to funding pension obligations under the locally administered plan prior to participation in the system, for the purpose of funding current service costs incurred after the date of participation. The city may increase the tax to pay current service costs which exceed the local pension system costs to which the tax had been devoted, but the city shall not collect from the tax more revenues than are necessary to pay current service costs incurred after the date of participation. The city may continue the tax so long as it participates in the system, and the tax shall not be subject to the provisions of KRS 132.017 or 132.027. The city shall not collect either tax authorized by this paragraph if its participation has been terminated pursuant to KRS 78.535;

(d) The county may at a later date purchase current service credit from July 1, 1958, to the participation date of the county by alternate participation plan for those employees who rejected membership in the system at the time the county first participated. In addition, the employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by adding it to the existing payment schedule established under paragraph (b) of this subsection;

(e) A county which did not participate by alternate participation may, until July 1, 1991, purchase current service credit for those employees who rejected membership in the system at the time the county first participated. The employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. The county shall pay the cost of the service credit by lump sum or by establishing a payment schedule under paragraph (b) of this subsection; and

(f) A county which participated in the system but did not elect the alternate participation plan may at a later date elect the alternate participation plan. In this case, the county shall purchase on behalf of each employee participating in the system current service credit for employment in regular full-time positions between July 1, 1958, or a later date selected by the county government, and the participation date of the county. The county shall also purchase, for employees who decide to participate when the county elects the alternate participation plan, current service credit for employment in regular full-time positions between July 1, 1958, or the later date selected by the county government, and the participation date of the county. In addition, the county shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by a payment schedule established under paragraph (b) of this subsection.

(4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no later than July 1, 1976.

(5) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system hospitals and any other semiindependent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.

(6) An agency whose participation in the County Employees Retirement System has been terminated by the board of trustees in accordance with KRS 78.535 may at a later date request participation in the retirement system by the adoption of an appropriate order as authorized by subsection (1) of this section. The board may accept the participation of such agency provided it is determined that such participation is in the best interest of the agency, the employees thereof and the County Employees Retirement System.

(7) After August 1, 1988, except as permitted by KRS 65.156, no local government retirement system shall be created pursuant to KRS 70.580 to 70.598 and any local government retirement systems created pursuant to KRS 79.080, 90.400, 90.410, 95.768, and KRS Chapter 96 shall be closed to new members. New employees who would have been granted membership in such retirement systems shall instead be granted membership in the County Employees Retirement System. Employees who would have been granted membership in retirement systems created pursuant to KRS 95.768, or any other policemen or firefighters who would have been granted membership in retirement systems created pursuant to KRS 79.080, 90.400, or 90.410, or any such policemen or firefighter members employed on or prior to August 1, 1988, who transfer to the County Employees Retirement System, shall be certified by their employers as working in hazardous positions. Each city participating in the County Employees Retirement System pursuant to this subsection shall execute the appropriate order authorizing such participation, shall select the alternate participation plan as described in subsection (3) of this section, and shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Cities which closed their local pension systems to new members and participated in the system prior to July 15, 1988, whose employees at the time of transition were given the option to join the system shall not be required to offer said employees a second option to join the system.

(8) Any city which closed a police and firefighter pension plan to new members between January 1, 1988, and July 15, 1988, and participated in the system under the alternate participation plan shall, if its police and firefighters were not covered by Social Security, or any city which operates a pension under KRS 90.400 or 90.410, shall be required to certify that its police and firefighters are working in hazardous positions, and shall offer its police and firefighters in service at the time of entry a second option to participate under hazardous duty coverage if they were not offered hazardous duty coverage at the time of their first option. The provisions of subsection (3)(b) of this section notwithstanding, a city affected by this subsection may, at its option, extend its payment schedule to the County Employees Retirement System for alternate participation to thirty (30) years at the rate actuarially assumed by the board.

The Committee Substitute to **SB 280** is as follows:

SB 280, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 78.530 is amended to read as follows:

(1) *(a)* Each county and school board, as defined in KRS 78.510, will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. In cases where general purpose county government does not participate, but the sheriff and his employees or the county clerk and his employees do, the sheriff or the clerk shall retain the order in his office. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.

(b) Notwithstanding any provision to the contrary, every county fiscal court not participating in the system on July 1, 2002, shall enact a resolution of participation for all general purpose county government employees, including sheriffs and clerks, no later than July 1, 2003.

(2) Once a county or school board participates, it shall thereafter continue to participate, except as provided in KRS 78.535.

(3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employee electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(2), current service credit for employment in regular full-time positions between July 1, 1958, and the participation date of the county. Cities which participate in the system pursuant to subsection (7) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 shall be required to purchase on behalf of each employee electing coverage only as much service credit as the employee has accumulated in the city-administered plan, up to the participation date of the city. Accumulated service shall include service for which an employee received a refund pursuant to KRS 95.620 or 95.866, if such refund has been repaid. If the employee has not yet repaid the refund, he may make payment to the system by any method acceptable to the system, and the requirement of five (5) years of continuous reemployment prior to repayment of refunds shall not apply. Upon the employee's repayment, the city shall purchase the associated service credit for the employee. Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county;

(b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be thirty (30) years, with interest at the rate actuarially assumed by the board. A shorter period is desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period, except that cities which participate in the system pursuant to subsection (7) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 may, at their option, extend the payment schedule to a maximum of thirty (30) years, may choose to make level payments at the interest rate actuarially assumed by the board over the life of the payment schedule chosen, and may retain employer contributions and the earnings thereon attributable to employees electing coverage;

(c) A city entering the system under the alternate participation plan, may, by ordinance, levy a special property tax to pay for current service credit purchased for the period between July 1, 1958, and the participation date of the city. The special tax shall be to pay, within a period of no more than fifteen (15) years, for the cost of such service credit over that which would be funded within the existing employer contribution rate, as determined by the board's consulting actuary. The reason for levying the special tax and the disposition of the proceeds shall be part of the ordinance levying the tax. The special tax shall be rescinded when the unfunded prior service liability has been amortized, and shall not be subject to the provisions of KRS 132.017 or 132.027. In addition, the city may maintain any tax, the proceeds of which had been devoted to funding pension obligations under the locally administered plan prior to participation in the system, for the purpose of funding current service costs incurred after the date of participation. The city may increase the tax to pay current service costs which exceed the local pension system costs to which the tax had been devoted, but the city shall not collect from the tax more revenues than are necessary to pay current service costs incurred after the date of participation. The city may continue the tax so long as it participates in the system, and the tax shall not be subject to the provisions of KRS 132.017 or 132.027. The city shall not collect either tax authorized by this paragraph if its participation has been terminated pursuant to KRS 78.535;

(d) The county may at a later date purchase current service credit from July 1, 1958, to the participation date of the county by alternate participation plan for those employees who rejected membership in the system at the time the county first participated. In addition, the employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by adding it to the existing payment schedule established under paragraph (b) of this subsection;

(e) A county which did not participate by alternate participation may, until July 1, 1991, purchase current service credit for those employees who rejected membership in the system at the time the county first participated. The employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. The county shall pay the cost of the service credit by lump sum or by establishing a payment schedule under paragraph (b) of this subsection; and

(f) A county which participated in the system but did not elect the alternate participation plan may at a later date elect the alternate participation plan. In this case, the county shall purchase on behalf of each employee participating in the system current service credit for employment in regular full-time positions between July 1, 1958, or a later date selected by the county government, and the participation date of the county. The county shall also purchase, for employees who decide to participate when the county elects the alternate participation plan, current service credit for employment in regular full-time positions between July 1, 1958, or the later date selected by the county government, and the participation date of the county. In addition, the county shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by a payment schedule established under paragraph (b) of this subsection.

(4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no later than July 1, 1976.

(5) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system hospitals and any other semiindependent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.

(6) An agency whose participation in the County Employees Retirement System has been terminated by the board of trustees

in accordance with KRS 78.535 may at a later date request participation in the retirement system by the adoption of an appropriate order as authorized by subsection (1) of this section. The board may accept the participation of such agency provided it is determined that such participation is in the best interest of the agency, the employees thereof and the County Employees Retirement System.

(7) After August 1, 1988, except as permitted by KRS 65.156, no local government retirement system shall be created pursuant to KRS 70.580 to 70.598 and any local government retirement systems created pursuant to KRS 79.080, 90.400, 90.410, 95.768, and KRS Chapter 96 shall be closed to new members. New employees who would have been granted membership in such retirement systems shall instead be granted membership in the County Employees Retirement System. Employees who would have been granted membership in retirement systems created pursuant to KRS 95.768, or any other policemen or firefighters who would have been granted membership in retirement systems created pursuant to KRS 79.080, 90.400, or 90.410, or any such policemen or firefighter members employed on or prior to August 1, 1988, who transfer to the County Employees Retirement System, shall be certified by their employers as working in hazardous positions. Each city participating in the County Employees Retirement System pursuant to this subsection shall execute the appropriate order authorizing such participation, shall select the alternate participation plan as described in subsection (3) of this section, and shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Cities which closed their local pension systems to new members and participated in the system prior to July 15, 1988, whose employees at the time of transition were given the option to join the system shall not be required to offer said employees a second option to join the system.

(8) Any city which closed a police and firefighter pension plan to new members between January 1, 1988, and July 15, 1988, and participated in the system under the alternate participation plan shall, if its police and firefighters were not covered by Social Security, or any city which operates a pension under KRS 90.400 or 90.410, shall be required to certify that its police and firefighters are working in hazardous positions, and shall offer its police and firefighters in service at the time of entry a second option to participate under hazardous duty coverage if they were not offered hazardous duty coverage at the time of their first option. The provisions of subsection (3)(b) of this section notwithstanding, a city affected by this subsection may, at its option, extend its payment schedule to the County Employees Retirement System for alternate participation to thirty (30) years at the rate actuarially assumed by the board.

SECTION 2. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO READ AS FOLLOWS:

(1) Full-time officers of the safety and security departments of the state universities may be transferred to the Kentucky Employees Retirement System and the state health insurance group.

(2) The retirement system shall assess the individual officer, and each individual officer shall pay, the actuarial value of the service transferred, but nothing shall preclude the state university from paying such actuarial values voluntarily if deemed appropriate by the university.

The Committee on Local Government reported **SB 257** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 257, AN ACT relating to electric generating facilities and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 9 of this Act, unless the context requires otherwise:

(1) "Board" means the Kentucky State Board on Electric Generation and Transmission Siting and the Environment created in Section 2 of this Act;

(2) "Merchant electric generating facility" means, except for a qualifying cogeneration facility as defined in subsection (6) of this section, an electricity generating plant, together with associated facilities, that:

(a) Is capable of operating at a capacity of ten megawatts (10MW) or more; and

(b) Sells the electricity it produces in the wholesale market, at rates and charges not regulated by the Public Service Commission;

(3) "Person" means any individual, corporation, public corporation, political subdivision, governmental agency, municipality, partnership, cooperative association, trust, estate, two (2) or more persons having a joint or common interest, or any other entity;

(4) "Commence to construct" means physical on-site placement, assembly, or installation of materials or equipment which will make up part of the ultimate structure of the facility. In order to qualify, these activities must take place at the site of the proposed facility or must be site specific. Activities such as site clearing and excavation work will not satisfy the commence to construct requirements;

(5) "Nonregulated electric transmission line" means an electric transmission line and related appurtenances for which no certificate of public convenience and necessity is required; which is not operated as an activity regulated by the Public Service Commission; and which is capable of operating at or above sixty-nine thousand (69,000) volts; and

(6) "Qualifying cogeneration facility" means a facility as defined in 16 U.S.C. sec. 796(18)(B) that is located on site at a manufacturer's plant and that uses steam in its manufacturing process.

SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the Kentucky State Board on Electric Generation and Transmission Siting and the Environment. The board shall be composed of seven (7) members as follows:

(a) The three (3) members of the Kentucky Public Service Commission;

(b) The secretary of the Natural Resources and Environmental Protection Cabinet or the secretary's designee;

(c) The secretary of the Cabinet for Economic Development or the secretary's designee;

(d) One (1) representative of the public at large who shall be appointed by the Governor to serve for a term of two (2) years; and

(e) 1. If the application before the board requests siting approval for a merchant electric generating facility, one (1) member who shall be a local representative of the public and a resident of a county or municipality in which the proposed facility is to be located. The board member shall be appointed by the respective county judge/executives or mayors of all such counties or municipalities. The term of service for the local representative shall continue until the board issues a final determination in the proceeding for which the local representative was appointed; or

2. If the application before the board requests siting approval for a nonregulated electric transmission line only, one (1) member who shall be a local representative of the public and a resident of a county in which the proposed nonregulated transmission line is to be located. The board member shall be appointed by the respective county judge/executives of all such counties. The term of service for the local representative shall continue until the board issues a final determination in the proceeding for which the local representative was appointed.

(2) The board shall be attached to the Public Service Commission for administrative purposes. The commission staff shall serve as permanent administrative staff for the board. The members of the board identified in subsection (1)(a) to (d) of this section shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement Sections 1 to 9 of this Act.

(3) No member of the board shall receive any salary or fee for service on the board or shall have any financial interest in any facility the application for which comes before the board, but each member shall be reimbursed for actual travel and expenses directly related to service on the board.

(4) The chairman of the Pubic Service Commission shall be the chairman of the board. The chairman shall designate one (1) member of the board as vice chairman. A majority of the members of the board shall constitute a quorum for the transaction of business. No vacancy on the board shall impair the right of the remaining members to exercise all of the powers of the board. The board shall convene upon the call of the chairman.

SECTION 3. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) No person shall commence to construct a merchant electric generating facility until that person has applied for and obtained a construction certificate for the facility from the board. The construction certificate shall be valid for a period of two (2) years after the issuance date of the last permit required to be obtained from the Natural Resources and Environmental Protection Cabinet after which the certificate shall be void. The certificate shall be conditioned upon the applicant having obtained all necessary air, water, and waste permits. If an applicant has not obtained all necessary permits and has not commenced to construct prior to the expiration date of the certificate, the applicant shall be required to obtain a valid certificate from the board.

(2) Except as provided in subsections (3), (4) and (5) of this section, no person shall commence to construct a merchant electric generating facility unless the exhaust stack of the proposed facility is at least one thousand (1,000) feet from the property boundary of any adjoining property owner and two thousand (2,000) feet from any residential neighborhood, school, hospital, or nursing home facility.

(3) If the merchant electric generating facility is proposed to be located in a county or a municipality with planning and zoning, then setback requirements from a residential neighborhood, school, hospital, or nursing home facility may be established by the planning and zoning commission. Any setback established by a planning and zoning commission for a facility in an area over which it has jurisdiction shall:

(a) Have primacy over the setback requirement in subsections (2) and (5) of this section; and

(b) Not be subject to modification or waiver by the board through a request for deviation by the applicant, as provided in subsection (4) of this section.

(4) The board may, for good cause shown, grant a deviation from the requirements of subsection (2) of this section.

(5) If the merchant electric generating facility is proposed to be located adjacent to a river, the exhaust stack of the proposed facility shall be at least four hundred (400) feet from a residential structure, residential neighborhood, school, hospital or nursing home facility.

SECTION 4. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) Any person seeking to obtain a construction certificate from the board to construct a merchant electric generating facility shall file an application at the offices of the Public Service Commission.

(2) A completed application shall include the following:

(a) The name, address, and telephone number of the person proposing to construct and own the merchant electric generating facility;

(b) A full description of the proposed site, including a map showing the distance of the proposed site from residential neighborhoods, the nearest residential structure, schools, and public and private parks that are located within a two (2) mile radius of the proposed facility;

(c) Evidence of public notice that shall include the location of the proposed site and a general description of the project, state that the proposed construction is subject to approval by the board, and provide the telephone number and address of the Public Service Commission. Public notice shall be given within thirty (30) days immediately preceding the application filing to:

1. Landowners whose property borders the proposed site; and

2. The general public in a newspaper of general circulation in the county or municipality in which the plant is proposed to be located;

(d) A statement certifying that the proposed plant will be in compliance with all local ordinances and regulations concerning noise control and with any applicable local planning and zoning ordinances. The statement shall also disclose setback requirements established by the planning and zoning commission as provided under subsection (3) of Section 3 of this Act;

(e) If the facility is not proposed to be located adjacent to a river or in an area where a planning and zoning commission has established a setback requirement pursuant to subsection (3) of Section 3 of this Act, a statement that the proposed site is at least one thousand (1,000) feet from the property boundary of any adjoining property owner and two thousand (2,000) feet from any residential neighborhood, school, hospital, or nursing home facility, unless facilities capable of generating ten megawatts (10MW) or more currently exist on the site. If the facility is proposed to be located adjacent to a river, a statement that the proposed site is compatible with the setback requirements provided under subsection (5) of Section 3 of this Act. If the facility is proposed to be located in a jurisdiction that has established setback requirements pursuant to subsection (3) of Section 3 of this Act, a statement that the proposed site is compatible with those established setback requirements;

(f) A complete report of the applicant's public involvement program activities undertaken prior to the filing of the application, including any use of media coverage, direct mailing, fliers, newsletters, public meetings, establishment of a community advisory group, and any other efforts to obtain local involvement in the siting process;

(g) A summary of the efforts made by the applicant to locate the proposed facility on a site where existing electric generating facilities are located;

(h) Proof of service of a copy of the application upon the chief executive officer of each county and municipal corporation in which the proposed facility is to be located, and upon the chief officer of each public agency charged with the duty of planning land use in the jurisdiction in which the facility is proposed to be located;

(i) An analysis of the proposed facility's projected effect on the electricity transmission system in Kentucky;

(j) An analysis of the proposed facility's economic impact on the affected region and the state;

(k) A detailed listing of all violations by it, or any of its affiliates or subsidiaries, of federal or state laws, rules, or administrative regulations, whether judicial or administrative, where violations have resulted in criminal convictions or civil or administrative fines exceeding one thousand dollars ($1,000). The status of any pending action, whether judicial or administrative, shall also be submitted; and

(l) A site assessment report as specified in Section 5 of this Act. The applicant may submit and the board may accept documentation of compliance with the National Environmental Policy Act (NEPA) rather than a site assessment report.

(3) Application fees for a construction certificate shall be set by the board and deposited into a trust and agency account to the credit of the commission.

(4) As of the effective date of this Act, replacement of a merchant electric generating facility with a like facility, or the repair, expansion, modification, retrofitting, enhancement or reconfiguration of a merchant electric generating facility shall not, for the purposes of Sections 3, 4, 5, 6, and 7 of this Act, constitute construction of a merchant electric generating facility.

SECTION 5. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) Any person proposing to construct a merchant electric generating facility shall file a site assessment report with the board as required under subsection (2)(l) of Section 4 of this Act.

(2) A site assessment report shall be prepared by a consultant selected by the applicant from a list of board-approved

consultants with the expense for the consultant report being borne by the applicant.

(3) A completed site assessment report shall include:

(a) A description of the proposed facility that shall include a proposed site development plan that describes:

1. Surrounding land uses for residential, commercial, agricultural, recreational purposes;

2. The legal boundaries of the proposed site;

3. Proposed access control to the site;

4. The location of facility buildings, transmission lines, and other structures;

5. Location and use of access ways, internal roads, and railways;

6. Existing or proposed utilities to service the facility;

7. Compliance with applicable setback requirements as provided under subsection (2), (3) or (5) of Section 3 of this Act; and

8. Evaluation of the noise levels expected to be produced by the facility;

(b) An evaluation of the compatibility of the facility with scenic surroundings;

(c) The potential changes in property values resulting from the siting, construction, and operation of the proposed facility for property owners in the vicinity of the facility;

(d) Evaluation of anticipated peak and average noise levels associated with the facility's construction and operation at the property boundary; and

(e) The impact of the facility's operation on road and rail traffic to and within the facility, including anticipated levels of fugitive dust created by the traffic and any anticipated degradation of roads and lands in the vicinity of the facility.

(4) The site assessment report shall also suggest any mitigating measures to be implemented by the applicant including planting trees, changing outside lighting, erecting noise barriers, and suppressing fugitive dust.

(5) The board shall have the authority to hire a consultant to review the site assessment report and provide recommendations concerning the adequacy of the report and proposed mitigation measures. The board may direct the consultant to prepare a separate site assessment report. Any expenses or fees incurred by the board's hiring of a consultant shall be borne by the applicant.

(6) The applicant shall be given the opportunity to present evidence to the board regarding any mitigation measures. As a condition of approval for an application to obtain a construction certificate, the board may require the implementation of any mitigation measures that the board deems appropriate.

SECTION 6. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) Within ninety (90) days of receipt of an administratively complete application, or within one hundred twenty (120) days of receipt of an administratively complete application if a hearing is requested, the board shall, by majority vote, grant or deny a construction certificate, either in whole or in part, based upon the following criteria:

(a) Impact of the facility on scenic surroundings, property values, the pattern and type of development of adjacent property, and surrounding roads;

(b) Anticipated noise levels expected as a result of construction and operation of the proposed facility;

(c) The economic impact of the facility upon the affected region and the state;

(d) Whether the facility is proposed for a site upon which existing generating facilities, capable of generating ten megawatts (10MW) or more of electricity, are currently located;

(e) Whether the proposed facility will meet all applicable local planning and zoning requirements that existed on the date the application was filed;

(f) Whether the additional load imposed upon the electricity transmission system by use of the merchant electric generating facility will adversely affect the reliability of service for retail customers of electric utilities regulated by the Public Service Commission;

(g) Whether the applicant has met all requirements for electricity transmission interconnection under Kentucky law and the open access transmission tariff of the host transmission owner or regional transmission operator;

(h) Except where the facility is subject to a statewide setback established by a planning and zoning commission as provided in subsection (3) of Section 3 of this Act and except for a facility proposed to be located adjacent to a river, whether the exhaust stack of the proposed merchant electric generating facility is at least one thousand (1,000) feet from the property boundary of any adjoining property owner and two thousand (2,000) feet from any residential neighborhood, school, hospital, or nursing home facility. If a planning and zoning commission has established setback requirements that differ from those under subsection (2) of Section 3 of this Act, the applicant shall provide evidence of compliance. If the facility is proposed to be located adjacent to a river, the applicant shall provide evidence of compliance with the setback requirements provided in subsection (5) of Section 3 of this Act;

(i) Whether the applicant possesses the financial, technical, and managerial capacity to construct and operate the proposed facility; and

(j) The efficacy of any proposed measures to mitigate adverse impacts that are identified pursuant to paragraph (a), (b), (e), (f), or (h) of this subsection from the construction or operation of the proposed facility.

(2) When considering an application for a construction certificate for a merchant electric generating facility, the board may consider the policy of the General Assembly to encourage the use of coal as a principal fuel for electricity generation as set forth in KRS 152.210, provided that any facility, regardless of fuel choice, shall comply fully with Sections 1 to 9, 10, 11, and 13 of this Act.

(3) A person that has received a construction certificate for a merchant electric generating facility shall not transfer rights and obligation under the certificate without having first applied for and received a board determination that:

(a) The acquirer has a good environmental compliance history; and

(b) The acquirer has the financial, technical, and managerial capacity to meet the obligations imposed by the terms of the approval.

SECTION 7. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) The board shall convene a local public hearing upon receipt of a request by not less than three (3) interested persons that reside in a county or municipal corporation in which the facility is proposed to be constructed to consider the application for a construction certificate. The board shall convene a local public hearing in response to a request from the planning and zoning commission, mayor of a city, or county fiscal court of a jurisdiction where the facility is proposed to be located. If the facility is proposed to be located in more than one (1) county, the board shall convene a local public hearing and the hearing shall be held in the county with the largest population not more than sixty (60) days after receipt of a completed application. Absent the minimum number of requests for a local public hearing, the board may conduct all evidentiary proceedings in Franklin County.

(2) In any hearing on an application for a construction certificate, the board shall not be bound by the technical rules of legal evidence. Any hearing shall be conducted pursuant to and in conformance with rules and requirements set forth by the board in administrative regulations promulgated pursuant to subsection (2) of Section 2 of this Act.

(3) The parties to a proceeding before the board shall include:

(a) The applicant; and

(b) Any person having been granted the right of intervention pursuant to subsection (4) of this section.

(4) Any interested person, including a person residing in a county or municipal corporation in which the facility is proposed to be constructed may, upon motion to the board, be granted leave to intervene as a party to a proceeding held pursuant to this section.

(5) Any party to a proceeding held pursuant to this section or any final determination pursuant to Section 6 of this Act may, within thirty (30) days after service of the board's final ruling, bring an action against the board in Franklin Circuit Court to vacate or set aside the ruling on grounds that the ruling is arbitrary, capricious, or otherwise unlawful or unreasonable. Any party instituting an action for review of the board's ruling in Franklin Circuit Court shall give notice to all parties of record in the board's proceeding.

SECTION 8. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) No person shall commence to construct a nonregulated electric transmission line without a construction certificate issued by the board. An application for a construction certificate shall be filed at the offices of the Public Service Commission along with an application fee as set forth in subsection (5) of this section.

(2) A completed application shall include the following:

(a) The name, address, and telephone number of the person proposing construction of the nonregulated transmission line;

(b) A full description of the proposed route of the transmission line and its appurtenances. The description shall include a map or maps showing:

1. The location of the proposed line and all proposed structures that will support it;

2. The proposed right-of-way limits;

3. Existing property lines and the names of persons who own the property over which the line will cross; and

4. The distance of the proposed line from residential neighborhoods, schools, and public and private parks within one (1) mile of the proposed facilities;

(c) A full description of the proposed line and appurtenances, including the following:

1. Initial and design voltages and capacities;

2. Itemized estimated costs;

3. Conductor sizes and specifications;

4. Overhead tower design, appearance, and heights, if any;

5. Length of line;

6. Terminal points; and

7. Substation connections;

(d) A statement that the proposed transmission line and appurtenances will be constructed and maintained in accordance with accepted engineering practices and the National Electric Safety Code;

(e) Evidence that public notice has been given by publication in a newspaper of general circulation in the general area concerned. Public notice shall include the location of the proposed line, shall state that the proposed line is subject to approval by the board, and shall provide the telephone number and address of the Public Service Commission;

(f) A complete report of the applicant's attempts to communicate to or obtain public involvement in the locating of the transmission line conducted prior to the filing of an application with the board. Attempts to communicate or obtain public involvement shall include any use of media coverage, direct mailings, fliers, newsletters, public meetings, establishment of a community advisory group, and any other efforts to obtain local involvement in the siting process; and

(g) Proof of service of a copy of the application upon the chief executive officer of each county and municipal corporation in which the proposed line is to be located, and upon the chief officer of each public agency charged with the duty of planning land use in the general area in which the line is proposed to be located.

(3) Within ninety (90) days of receipt of the application, or one hundred twenty (120) days if a local public hearing is held, the board shall, by majority vote, grant or deny the construction certificate either in whole or in part. Action to grant the certificate shall be based on the board's determination that the proposed route of the line will minimize adverse impact on the scenic assets of Kentucky and that the applicant will construct and maintain the line according to all applicable legal requirements. If the board determines that locating the transmission line will result in degradation of scenic factors or if the board determines that the construction and maintenance of the line will be in violation of applicable legal requirements, the board may deny the application or condition the application's approval upon relocation of the route of the line.

(4) A public hearing on an application to construct a nonregulated electric transmission line may be held in accordance with the provisions of Section 7 of this Act.

(5) The board shall promulgate administrative regulations to establish an application fee for a construction certificate for a nonregulated transmission line in accordance with subsection (2) of Section 2 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a trust and agency account in the State Treasury called the "siting fund."

(2) All fees received by the board for the purpose of administering Sections 1 to 9 of this Act shall be deposited into the siting fund account. The fund shall not lapse and all expenditures from the fund shall be used to implement Sections 1 to 9 of this Act.

SECTION 10. A NEW SECTION OF SUBCHAPTER 10 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A person, including a utility, making an application for a permit from the cabinet that is required for either the construction or operation of a facility to be used for the generation of electricity shall submit:

(a) A cumulative assessment report to the cabinet with the permit application; and

(b) A fee set pursuant to KRS 224.10-100(20) by the cabinet to defray the cost of processing the cumulative assessment report.

The person may submit and the cabinet may accept documentation of compliance with the National Environmental Policy Act (NEPA) as satisfying the requirements to file an environmental impact assessment under subsection (1) of this section.

(2) The cumulative assessment report shall contain a description, with appropriate analytical support, of:

(a) For air pollutants:

1. Types and quantities of air pollutants that will be emitted from the facility; and

2. A description of the methods to be used to control those emissions;

(b) For water pollutants:

1. Types and quantities of water pollutants that will be discharged from the facility into the waters of the Commonwealth; and

2. A description of the methods to be used to control those discharges;

(c) For wastes:

1. Types and quantities of wastes that will be generated by the facility; and

2. A description of the methods to be used to manage and dispose of such wastes;

(d) For water withdrawal:

1. Identification of the source and volume of anticipated water withdrawal needed to support facility construction and operations; and

2. A description of the methods to be used for managing water usage and withdrawal.

(2) The cabinet may impose such conditions regarding the timing, volume, duration, or type of pollutants on a permit, registration, or permit-by-rule for a facility subject to this section as the cabinet deems necessary. Any such conditions on a permit, registration, or permit-by-rule for a facility subject to this section shall be in accordance with applicable standards.

(3) Not more than sixty (60) days after the receipt of a cumulative assessment report from a utility, the cabinet shall prepare a statement that discloses the purpose for any conditions that the cabinet deems necessary to be imposed on a permit and shall submit to the Public Service Commission a copy of the cumulative assessment report.

(4) The cabinet shall promulgate administrative regulations to implement the provisions of this section.

(5) As used in this section, the term "utility" shall have the meaning given in KRS 278.010(3)(a). "Commission" means the Public Service Commission.

SECTION 11. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED TO READ AS FOLLOWS:

(1) No utility shall begin the construction or installation of any property, equipment, or facility to establish an electrical interconnection with a merchant electric generating facility in excess of ten megawatts (10MW) until the plans and specifications for the electrical interconnection have been filed with and approved by the commission.

(2) Notwithstanding any other provision of law, any costs or expenses associated with upgrading the existing electricity transmission grid, as a result of the additional load caused by a merchant electric generating facility, shall be borne solely by the person constructing the merchant electric generating facility and shall in no way be borne by the retail electric customers of the Commonwealth.

SECTION 12. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED TO READ AS FOLLOWS:

When a utility or generation and transmission cooperative engaged in the transmission of electricity experiences on its transmission facilities an emergency or other event that necessitates a curtailment or interruption of service, the utility or generation and transmission cooperative shall not curtail or interrupt retail electric service within its certified territory, or curtail or interrupt wholesale electric energy furnished to a member distribution cooperative for retail electric service within the cooperative's certified territory, except for customers who have agreed to receive interruptible service, until after service has been interrupted to all other customers whose interruption may relieve the emergency or other event.

SECTION 13. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of law to the contrary, no person, partnership, public or private corporation or combination thereof shall begin the construction of any facility to be used for the generation of electricity to or for the public for compensation without submitting a cumulative assessment report to the Natural Resources and Environmental Protection Cabinet in accordance with Section 10 of this Act.

(2) On receipt of the report from the Natural Resources and Environmental Protection Cabinet, or if the period for submitting the cumulative assessment report to the cabinet has expired, the commission may conduct a public hearing on the cumulative environmental assessment of the facility which shall be open to all interested persons. For the purpose of this paragraph an "interested person" shall mean any person whose living environment would be affected by the construction of the proposed facility.

SECTION 14. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED TO READ AS FOLLOWS:

(1) No person shall acquire or transfer ownership of or control, or the right to control, any assets that are owned by a utility as defined under KRS 278.010(3)(a) without prior approval of the commission, if the assets have an original book value of one million dollars ($1,000,000) or more and:

(a) The assets are to be transferred by the utility for reasons other than obsolescence; or

(b) The assets will continue to be used to provide the same or similar service to the utility or its customers.

(2) The commission shall grant its approval if the transaction is for a proper purpose and is consistent with the public interest.

Section 15. KRS 278.010 is amended to read as follows:

As used in KRS 278.010 to 278.450, and in KRS 278.990, unless the context otherwise requires:

(1) "Corporation" includes private, quasipublic, and public corporations, and all boards, agencies, and instrumentalities thereof, associations, joint-stock companies, and business trusts;

(2) "Person" includes natural persons, partnerships, corporations, and two (2) or more persons having a joint or common interest;

(3) "Utility" means any person except, for purposes of paragraphs (a), (b), (c), (d), and (f) of this subsection, a city, who owns, controls, operates, or manages any facility used or to be used for or in connection with:

(a) The generation, production, transmission, or distribution of electricity to or for the public, for compensation, for lights, heat, power, or other uses;

(b) The production, manufacture, storage, distribution, sale, or furnishing of natural or manufactured gas, or a mixture of same, to or for the public, for compensation, for light, heat, power, or other uses;

(c) The transporting or conveying of gas, crude oil, or other fluid substance by pipeline to or for the public, for compensation;

(d) The diverting, developing, pumping, impounding, distributing, or furnishing of water to or for the public, for compensation;

(e) The transmission or conveyance over wire, in air, or otherwise, of any message by telephone or telegraph for the public, for compensation; or

(f) The collection, transmission, or treatment of sewage for the public, for compensation, if the facility is a subdivision collection, transmission, or treatment facility plant that is affixed to real property and is located in a county containing a city of the first class or is a sewage collection, transmission, or treatment facility that is affixed to real property, that is located in any other county, and that is not subject to regulation by a metropolitan sewer district or any sanitation district created pursuant to KRS Chapter 220;

(4) "Retail electric supplier" means any person, firm, corporation, association, or cooperative corporation, excluding municipal corporations, engaged in the furnishing of retail electric service;

(5) "Certified territory" shall mean the areas as certified by and pursuant to KRS 278.017;

(6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is being or has been substantially used to supply retail electric service and includes all lines from the distribution substation to the electric consuming facility but does not include any transmission facilities used primarily to transfer energy in bulk;

(7) "Retail electric service" means electric service furnished to a consumer for ultimate consumption, but does not include wholesale electric energy furnished by an electric supplier to another electric supplier for resale;

(8) "Electric-consuming facilities" means everything that utilizes electric energy from a central station source;

(9) "Generation and transmission cooperative," or "G&T," means a utility formed under KRS Chapter 279 that provides electric generation and transmission services;

(10) "Distribution cooperative" means a utility formed under KRS Chapter 279 that provides retail electric service;

(11) "Facility" includes all property, means, and instrumentalities owned, operated, leased, licensed, used, furnished, or supplied for, by, or in connection with the business of any utility;

(12) "Rate" means any individual or joint fare, toll, charge, rental, or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement, or privilege in any way relating to such fare, toll, charge, rental, or other compensation, and any schedule or tariff or part of a schedule or tariff thereof;

(13) "Service" includes any practice or requirement in any way relating to the service of any utility, including the voltage of electricity, the heat units and pressure of gas, the purity, pressure, and quantity of water, and in general the quality, quantity, and pressure of any commodity or product used or to be used for or in connection with the business of any utility;

(14) "Adequate service" means having sufficient capacity to meet the maximum estimated requirements of the customer to be served during the year following the commencement of permanent service and to meet the maximum estimated requirements of other actual customers to be supplied from the same lines or facilities during such year and to assure such customers of reasonable continuity of service;

(15) "Commission" means the Public Service Commission of Kentucky;

(16) "Commissioner" means one (1) of the members of the commission;

(17) "Demand-side management" means any conservation, load management, or other utility activity intended to influence the level or pattern of customer usage or demand, including home energy assistance programs;

(18) "Affiliate" means a person that controls or that is controlled by, or is under common control with, a utility;

(19) "Control" means the power to direct the management or policies of a person through ownership, by contract, or otherwise;

(20) "CAM" means a cost allocation manual which is an indexed compilation and documentation of a company's cost allocation policies and related procedures;

(21) "Nonregulated activity" means the provision of competitive retail gas or electric services or other products or services over which the commission exerts no regulatory authority;

(22) "Nonregulated" means that which is not subject to regulation by the commission;

(23) "Regulated activity" means a service provided by a utility ***or other person***, the rates and charges of which are regulated by the commission;

(24) "USoA" means uniform system of accounts which is a system of accounts for public utilities established by the FERC and adopted by the commission;

(25) "Arm's length" means the standard of conduct under which unrelated parties, each party acting in its own best interest, would negotiate and carry out a particular transaction;

(26) "Subsidize" means the recovery of costs or the transfer of value from one (1) class of customer, activity, or business unit that is attributable to another;

(27) "Solicit" means to engage in or offer for sale a good or service, either directly or indirectly and irrespective of place or audience;

(28) "USDA" means the United States Department of Agriculture;

(29) "FERC" means the Federal Energy Regulatory Commission; and

(30) "SEC" means the Securities and Exchange Commission.

Section 16. The following KRS section is repealed:

278.025 Certificate of environmental compatibility -- Requirements.

Section 17. Whereas the regulatory agencies charged with the implementation of this Act will need time sufficient to revise administrative regulations and place them in effect prior to the expiration of the moratorium on the issuance of permits for new electricity generating facilities, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Substitute to **SB 257** is as follows:

SB 257, AN ACT relating to electric generating facilities and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 9 of this Act, unless the context requires otherwise:

(1) "Board" means the Kentucky State Board on Electric Generation and Transmission Siting and the Environment created in Section 2 of this Act;

(2) "Merchant electric generating facility" means an electricity generating plant, together with associated facilities, that:

(a) Is capable of operating at a capacity of ten megawatts (10MW) or more; and

(b) Sells the electricity it produces in the wholesale market, at rates and charges not regulated by the Public Service Commission;

(3) "Person" means any individual, corporation, public corporation, political subdivision, governmental agency, municipality, partnership, cooperative association, trust, estate, two (2) or more persons having a joint or common interest, or any other entity;

(4) "Commence to construct" means physical on-site placement, assembly, or installation of materials or equipment which will make up part of the ultimate structure of the facility. In order to qualify, these activities must take place at the site of the proposed facility or must be site specific. Activities such as site clearing and excavation work will not satisfy the commence to construct requirements;

(5) "Nonregulated electric transmission line" means an electric transmission line and related appurtenances for which no certificate of public convenience and necessity is required; which is not operated as an activity regulated by the Public Service Commission; and which is capable of operating at or above sixty-nine thousand (69,000) volts.

SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the Kentucky State Board on Electric Generation and Transmission Siting and the Environment. The board shall be composed of seven (7) members as follows:

(a) The three (3) members of the Kentucky Public Service Commission;

(b) The secretary of the Natural Resources and Environmental Protection Cabinet or the secretary's designee;

(c) The secretary of the Cabinet for Economic Development or the secretary's designee;

(d) One (1) representative of the public at large who shall be appointed by the Governor to serve for a term of two (2) years; and

(e) 1. If the application before the board requests siting approval for a merchant electric generating facility, one (1) member who shall be a local representative of the public and a resident of a county or municipality in which the proposed facility is to be located. The board member shall be appointed by the respective county judge/executives or mayors of all such counties or municipalities. The term of service for the local representative shall continue until the board issues a final determination in the proceeding for which the local representative was appointed; or

2. If the application before the board requests siting approval for a nonregulated electric transmission line only, one (1) member who shall be a local representative of the public and a resident of a county in which the proposed nonregulated transmission line is to be located. The board member shall be *appointed by the respective county judge/executives of all such counties. The term of service for the local representative shall continue until the board issues a final determination in the proceeding for which the local representative was appointed.*

(2) The board shall be attached to the Public Service Commission for administrative purposes. The commission staff shall serve as permanent administrative staff for the board. The members of the board identified in subsection (1)(a) to (d) of this section shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement Sections 1 to 9 of this Act.

(3) No member of the board shall receive any salary or fee for service on the board or shall have any financial interest in any facility the application for which comes before the board, but each member shall be reimbursed for actual travel and expenses directly related to service on the board.

(4) The chairman of the Pubic Service Commission shall be the chairman of the board. The chairman shall designate one (1) member of the board as vice chairman. A majority of the members of the board shall constitute a quorum for the transaction of business. No vacancy on the board shall impair the right of the remaining members to exercise all of the powers of the board. The board shall convene upon the call of the chairman.

SECTION 3. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) No person shall commence to construct a merchant electric generating facility until that person has applied for and obtained a construction certificate for the facility from the board. The construction certificate shall be valid for a period of two (2) years after the issuance date of the last permit required to be obtained from the Natural Resources and Environmental Protection Cabinet after which the certificate shall be void. The certificate shall be conditioned upon the applicant having obtained all necessary air, water, and waste permits. If an applicant has not obtained all necessary permits and has not commenced to construct prior to the expiration date of the certificate, the applicant shall be required to obtain a valid certificate from the board.

(2) Except as provided in subsections (3), (4) and (5) of this section, no person shall commence to construct a merchant electric generating facility unless the exhaust stack of the proposed facility is at least one thousand (1,000) feet from the property boundary of any adjoining property owner and two thousand (2,000) feet from any residential neighborhood, school, hospital, or nursing home facility.

(3) If the merchant electric generating facility is proposed to be located in a county or a municipality with planning and zoning, then setback requirements from a residential neighborhood, school, hospital, or nursing home facility may be established by the planning and zoning commission. Any setback established by a planning and zoning commission for a facility in an area over which it has jurisdiction shall:

(a) Have primacy over the setback requirement in subsections (2) and (5) of this section; and

(b) Not be subject to modification or waiver by the board through a request for deviation by the applicant, as provided in subsection (4) of this section.

(4) The board may, for good cause shown, grant a deviation from the requirements of subsection (2) of this section.

(5) If the merchant electric generating facility is proposed to be located adjacent to a river and the facility will use clean coal technology as defined in 42 U.S.C. sec. 7651, the exhaust stack of the proposed facility shall be at least four hundred (400) feet from a residential structure, residential neighborhood, school, hospital or nursing home facility.

SECTION 4. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) Any person seeking to obtain a construction certificate from the board to construct a merchant electric generating facility shall file an application at the offices of the Public Service Commission.

(2) A completed application shall include the following:

(a) The name, address, and telephone number of the person proposing to construct and own the merchant electric generating facility;

(b) A full description of the proposed site, including a map showing the distance of the proposed site from residential neighborhoods, the nearest residential structure, schools, and public and private parks that are located within a two (2) mile radius of the proposed facility;

(c) Evidence of public notice that shall include the location of the proposed site and a general description of the project, state that the proposed construction is subject to approval by the board, and provide the telephone number and address of the Public Service Commission. Public notice shall be given within thirty (30) days immediately preceding the application filing to:

1. Landowners whose property borders the proposed site; and

2. The general public in a newspaper of general circulation in the county or municipality in which the plant is proposed to be located;

(d) A statement certifying that the proposed plant will be in compliance with all local ordinances and regulations concerning noise control and with any applicable local planning and zoning ordinances. The statement shall also disclose setback requirements established by the planning and zoning commission as provided under subsection (3) of Section 3 of this Act;

(e) If the facility is not proposed to be located adjacent to a river or in an area where a planning and zoning commission has established a setback requirement pursuant to subsection (3) of Section 3 of this Act, a statement that the proposed site is at least one thousand (1,000) feet from the property boundary of any adjoining property owner and two thousand (2,000) feet from any residential neighborhood, school, hospital, or nursing home facility, unless facilities capable of generating ten megawatts (10MW) or more currently exist on the site. If the facility is proposed to be located adjacent to a river and the facility will use clean coal technology as defined in 42 U.S.C. sec. 7651, a statement that the proposed site is compatible with the setback requirements provided under subsection (5) of Section 3 of this Act. If the facility is proposed to be located in a jurisdiction that has established setback requirements pursuant to subsection (3) of Section 3 of this Act, a statement that the proposed site is compatible with those established setback requirements;

(f) A complete report of the applicant's public involvement program activities undertaken prior to the filing of the application, including any use of media coverage, direct mailing, fliers, newsletters, public meetings, establishment of a community advisory group, and any other efforts to obtain local involvement in the siting process;

(g) A summary of the efforts made by the applicant to locate the proposed facility on a site where existing electric generating facilities are located;

(h) Proof of service of a copy of the application upon the chief executive officer of each county and municipal corporation in which the proposed facility is to be located, and upon the chief officer of each public agency charged with the duty of planning land use in the jurisdiction in which the facility is proposed to be located;

(i) An analysis of the proposed facility's projected effect on the electricity transmission system in Kentucky;

(j) An analysis of the proposed facility's economic impact on the affected region and the state;

(k) A detailed listing of all violations by it, or any of its affiliates or subsidiaries, of federal or state laws, rules, or administrative regulations, whether judicial or administrative, where violations have resulted in criminal convictions or civil or administrative fines exceeding one thousand dollars ($1,000). The status of any pending action, whether judicial or administrative, shall also be submitted; and

(l) A site assessment report as specified in Section 5 of this Act. The applicant may submit and the board may accept documentation of compliance with the National Environmental Policy Act (NEPA) rather than a site assessment report.

(3) Application fees for a construction certificate shall be set by the board and deposited into a trust and agency account to the credit of the commission.

(4) As of the effective date of this Act, replacement of a merchant electric generating facility with a like facility, or the repair, modification, retrofitting, enhancement or reconfiguration of a merchant electric generating facility shall not, for the purposes of Sections 3, 4, 5, 6, and 7 of this Act, constitute construction of a merchant electric generating facility.

(5) The board shall promulgate administrative regulations prescribing fees to pay expenses associated with its review of applications filed with it pursuant to Sections 1 to 9 of this Act. All application fees collected by the board shall be deposited in a trust and agency account to the credit of the Public Service Commission. If a majority of the members of the board find that an applicant's initial fees are insufficient to pay the board's expenses associated with the application, including the board's expenses associated with legal review thereof, the board shall assess a supplemental application fee to cover the additional expenses. An applicant's failure to pay a fee assessed pursuant to this subsection shall be grounds for denial of the application.

SECTION 5. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) Any person proposing to construct a merchant electric generating facility shall file a site assessment report with the board as required under subsection (2)(l) of Section 4 of this Act.

(2) A site assessment report shall be prepared by a consultant selected by the applicant from a list of board-approved consultants with the expense for the consultant report being borne by the applicant.

(3) A completed site assessment report shall include:

(a) A description of the proposed facility that shall include a proposed site development plan that describes:

1. Surrounding land uses for residential, commercial, agricultural, recreational purposes;

2. The legal boundaries of the proposed site;

3. Proposed access control to the site;

4. The location of facility buildings, transmission lines, and other structures;

5. Location and use of access ways, internal roads, and railways;

6. Existing or proposed utilities to service the facility;

7. Compliance with applicable setback requirements as provided under subsection (2), (3) or (5) of Section 3 of this Act; and

8. Evaluation of the noise levels expected to be produced by the facility;

(b) An evaluation of the compatibility of the facility with scenic surroundings;

(c) The potential changes in property values resulting from the siting, construction, and operation of the proposed facility for property owners adjacent to the facility;

(d) Evaluation of anticipated peak and average noise levels associated with the facility's construction and operation at the property boundary; and

(e) The impact of the facility's operation on road and rail traffic to and within the facility, including anticipated levels of fugitive dust created by the traffic and any anticipated degradation of roads and lands in the vicinity of the facility.

(4) The site assessment report shall also suggest any mitigating measures to be implemented by the applicant including planting trees, changing outside lighting, erecting noise barriers, and suppressing fugitive dust.

(5) The board shall have the authority to hire a consultant to review the site assessment report and provide recommendations concerning the adequacy of the report and proposed mitigation measures. The board may direct the consultant to prepare a separate site assessment report. Any expenses or fees incurred by the board's hiring of a consultant shall be borne by the applicant.

(6) The applicant shall be given the opportunity to present evidence to the board regarding any mitigation measures. As a condition of approval for an application to obtain a construction certificate, the board may require the implementation of any mitigation measures that the board deems appropriate.

SECTION 6. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) Within ninety (90) days of receipt of an administratively complete application, or within one hundred twenty (120) days of receipt of an administratively complete application if a hearing is requested, the board shall, by majority vote, grant or deny a construction certificate, either in whole or in part, based upon the following criteria:

(a) Impact of the facility on scenic surroundings, property values, the pattern and type of development of adjacent property, and surrounding roads;

(b) Anticipated noise levels expected as a result of construction and operation of the proposed facility;

(c) The economic impact of the facility upon the affected region and the state;

(d) Whether the facility is proposed for a site upon which existing generating facilities, capable of generating ten megawatts (10MW) or more of electricity, are currently located;

(e) Whether the proposed facility will meet all applicable local planning and zoning requirements that existed on the date the application was filed;

(f) Whether the additional load imposed upon the electricity transmission system by use of the merchant electric generating facility will adversely affect the reliability of service for retail customers of electric utilities regulated by the Public Service Commission;

(g) Whether the applicant has met all requirements for electricity transmission interconnection under Kentucky law and the open access transmission tariff of the host transmission owner or regional transmission operator;

(h) Except where the facility is subject to a statewide setback established by a planning and zoning commission as provided in subsection (3) of Section 3 of this Act and except for a facility proposed to be located adjacent to a river, whether the exhaust stack of the proposed merchant electric generating facility is at least one thousand (1,000) feet from the property boundary of any adjoining property owner and two thousand (2,000) feet from any residential neighborhood, school, hospital, or nursing home facility. If a planning and zoning commission has established setback requirements that differ from those under subsection (2) of Section 3 of this Act, the applicant shall provide evidence of compliance. If the facility is proposed to be located adjacent to a river and the facility will use clean coal technology as defined in 42 U.S.C. sec. 7651, the applicant shall provide evidence of compliance with the setback requirements provided in subsection (5) of Section 3 of this Act;

(i) Whether the applicant possesses the financial, technical, and managerial capacity to construct and operate the proposed facility; and

(j) The efficacy of any proposed measures to mitigate adverse impacts that are identified pursuant to paragraph (a), (b), (e), (f), or (h) of this subsection from the construction or operation of the proposed facility.

(2) When considering an application for a construction certificate for a merchant electric generating facility, the board may consider the policy of the General Assembly to encourage the use of coal as a principal fuel for electricity generation as set forth in KRS 152.210, provided that any facility, regardless of fuel choice, shall comply fully with Sections 1 to 9, 10, 11, and 13 of this Act.

(3) A person that has received a construction certificate for a merchant electric generating facility shall not transfer rights and obligation under the certificate without having first applied for and received a board determination that:

(a) The acquirer has a good environmental compliance history; and

(b) The acquirer has the financial, technical, and managerial capacity to meet the obligations imposed by the terms

of the approval.

SECTION 7. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) The board shall convene a local public hearing upon receipt of a request by not less than three (3) interested persons that reside in a county or municipal corporation in which the facility is proposed to be constructed to consider the application for a construction certificate. The board shall convene a local public hearing in response to a request from the planning and zoning commission, mayor of a city, or county fiscal court of a jurisdiction where the facility is proposed to be located. If the facility is proposed to be located in more than one (1) county, the board shall convene a local public hearing and the hearing shall be held in the county with the largest population not more than sixty (60) days after receipt of a completed application. Absent the minimum number of requests for a local public hearing, the board may conduct all evidentiary proceedings in Franklin County.

(2) In any hearing on an application for a construction certificate, the board shall not be bound by the technical rules of legal evidence. Any hearing shall be conducted pursuant to and in conformance with rules and requirements set forth by the board in administrative regulations promulgated pursuant to subsection (2) of Section 2 of this Act.

(3) The parties to a proceeding before the board shall include:

(a) The applicant; and

(b) Any person having been granted the right of intervention pursuant to subsection (4) of this section.

(4) Any interested person, including a person residing in a county or municipal corporation in which the facility is proposed to be constructed may, upon motion to the board, be granted leave to intervene as a party to a proceeding held pursuant to this section.

(5) Any party to a proceeding held pursuant to this section or any final determination pursuant to Section 6 of this Act may, within thirty (30) days after service of the board's final ruling, bring an action against the board in the Circuit Court of the county in which the facility is proposed to be constructed to vacate or set aside the ruling on grounds that the ruling is arbitrary, capricious, or otherwise unlawful or unreasonable. Any party instituting an action for review of the board's ruling in the Circuit Court of the county in which the facility is proposed to be constructed shall give notice to all parties of record in the board's proceeding.

SECTION 8. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) No person shall commence to construct a nonregulated electric transmission line without a construction certificate issued by the board. An application for a construction certificate shall be filed at the offices of the Public Service Commission along with an application fee as set forth in subsection (5) of this section.

(2) A completed application shall include the following:

(a) The name, address, and telephone number of the person proposing construction of the nonregulated transmission line;

(b) A full description of the proposed route of the transmission line and its appurtenances. The description shall include a map or maps showing:

1. The location of the proposed line and all proposed structures that will support it;

2. The proposed right-of-way limits;

3. Existing property lines and the names of persons who own the property over which the line will cross; and

4. The distance of the proposed line from residential neighborhoods, schools, and public and private parks within one (1) mile of the proposed facilities;

(c) A full description of the proposed line and appurtenances, including the following:

1. Initial and design voltages and capacities;

2. Itemized estimated costs;

3. Conductor sizes and specifications;

4. Overhead tower design, appearance, and heights, if any;

5. Length of line;

6. Terminal points; and

7. Substation connections;

(d) A statement that the proposed transmission line and appurtenances will be constructed and maintained in accordance with accepted engineering practices and the National Electric Safety Code;

(e) Evidence that public notice has been given by publication in a newspaper of general circulation in the general area concerned. Public notice shall include the location of the proposed line, shall state that the proposed line is subject to approval by the board, and shall provide the telephone number and address of the Public Service Commission;

(f) A complete report of the applicant's attempts to communicate to or obtain public involvement in the locating of

the transmission line conducted prior to the filing of an application with the board. Attempts to communicate or obtain public involvement shall include any use of media coverage, direct mailings, fliers, newsletters, public meetings, establishment of a community advisory group, and any other efforts to obtain local involvement in the siting process; and

(g) Proof of service of a copy of the application upon the chief executive officer of each county and municipal corporation in which the proposed line is to be located, and upon the chief officer of each public agency charged with the duty of planning land use in the general area in which the line is proposed to be located.

(3) Within ninety (90) days of receipt of the application, or one hundred twenty (120) days if a local public hearing is held, the board shall, by majority vote, grant or deny the construction certificate either in whole or in part. Action to grant the certificate shall be based on the board's determination that the proposed route of the line will minimize adverse impact on the scenic assets of Kentucky and that the applicant will construct and maintain the line according to all applicable legal requirements. If the board determines that locating the transmission line will result in degradation of scenic factors or if the board determines that the construction and maintenance of the line will be in violation of applicable legal requirements, the board may deny the application or condition the application's approval upon relocation of the route of the line.

(4) A public hearing on an application to construct a nonregulated electric transmission line may be held in accordance with the provisions of Section 7 of this Act.

(5) The board shall promulgate administrative regulations to establish an application fee for a construction certificate for a nonregulated transmission line in accordance with subsection (2) of Section 2 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a trust and agency account in the Public Service Commission called the "siting fund."

(2) All fees received by the board for the purpose of administering Sections 1 to 9 of this Act shall be deposited into the siting fund account. The fund shall not lapse and all expenditures from the fund shall be used to implement Sections 1 to 9 of this Act.

SECTION 10. A NEW SECTION OF SUBCHAPTER 10 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Except for a person that commenced construction of a facility prior to April 15, 2002 or that has received a certificate of public convenience and necessity from the Public Service Commission prior to April 15, 2002, no person shall commence to construct a facility to be used for the generation of electricity unless the person:

(a) Submits a cumulative environmental assessment to the cabinet with the permit application; and

(b) Remits a fee set pursuant to KRS 224.10-100(20) by the cabinet to defray the cost of processing the cumulative environmental assessment.

(2) The person may submit and the cabinet may accept documentation of compliance with the National Environmental Policy Act (NEPA) as satisfying the requirements to file a cumulative environmental assessment under subsection (1) of this section.

(3) The cumulative environmental assessment shall contain a description, with appropriate analytical support, of:

(a) For air pollutants:

1. Types and quantities of air pollutants that will be emitted from the facility; and

2. A description of the methods to be used to control those emissions;

(b) For water pollutants:

1. Types and quantities of water pollutants that will be discharged from the facility into the waters of the Commonwealth; and

2. A description of the methods to be used to control those discharges;

(c) For wastes:

1. Types and quantities of wastes that will be generated by the facility; and

2. A description of the methods to be used to manage and dispose of such wastes;

(d) For water withdrawal:

1. Identification of the source and volume of anticipated water withdrawal needed to support facility construction and operations; and

2. A description of the methods to be used for managing water usage and withdrawal.

(4) The cabinet may impose such conditions regarding the timing, volume, duration, or type of pollutants on a permit, registration, general permit, or permit-by-rule for a facility subject to this section as are necessary to comply with applicable standards.

(5) The cabinet may promulgate administrative regulations to implement the provisions of this section.

SECTION 11. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED TO READ AS FOLLOWS:

(1) No utility shall begin the construction or installation of any property, equipment, or facility to establish an electrical interconnection with a merchant electric generating facility in excess of ten megawatts (10MW) until the plans and specifications for the electrical interconnection have been filed with and approved by the commission.

(2) Notwithstanding any other provision of law, any costs or expenses associated with upgrading the existing electricity transmission grid, as a result of the additional load caused by a merchant electric generating facility, shall be borne solely by the person constructing the merchant electric generating facility and shall in no way be borne by the retail electric customers of the Commonwealth.

SECTION 12. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED TO READ AS FOLLOWS:

When a utility or generation and transmission cooperative engaged in the transmission of electricity experiences on its transmission facilities an emergency or other event that necessitates a curtailment or interruption of service, the utility or generation and transmission cooperative shall not curtail or interrupt retail electric service within its certified territory, or curtail or interrupt wholesale electric energy furnished to a member distribution cooperative for retail electric service within the cooperative's certified territory, except for customers who have agreed to receive interruptible service, until after service has been interrupted to all other customers whose interruption may relieve the emergency or other event.

SECTION 13. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED TO READ AS FOLLOWS:

(1) No utility shall begin the construction of a facility for the generation of electricity capable of generating in aggregate more than ten megawatts (10MW), for which it has not been granted a certificate of public convenience and necessity prior to the effective date of this Act, without having first obtained a site compatibility certificate from the commission.

(2) An application for a site compatibility certificate shall include the submission of a site assessment report as prescribed in subsections (3) and (4) of Section 5 of this Act, except that a utility which proposes to construct a facility on a site that already contains facilities capable of generating ten megawatts (10MW) or more of electricity shall not be required to comply with setback requirements established pursuant to subsection (3) of Section 3 of this Act. A utility may submit and the board may accept documentation of compliance with the National Environmental Policy Act (NEPA) rather than a site assessment report.

(3) The commission shall not deny an application filed pursuant to, and in compliance with this section. However, the commission may require reasonable mitigation of impacts disclosed in the site assessment report including planting trees, changing outside lighting, erecting noise barriers, and suppressing fugitive dust, but the commission shall, in no event, order relocation of the facility.

(4) The commission may also grant a deviation from any applicable setback requirements for good cause shown.

(5) Nothing contained in this section shall be construed to limit a utility's exemption provided under KRS 100.324.

(6) For the purposes of this section, "utility" has the same meaning as in KRS 278.010(3)(a) or (9).

SECTION 14. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED TO READ AS FOLLOWS:

(1) No person shall acquire or transfer ownership of or control, or the right to control, any assets that are owned by a utility as defined under KRS 278.010(3)(a) without prior approval of the commission, if the assets have an original book value of one million dollars ($1,000,000) or more and:

  (a) The assets are to be transferred by the utility for reasons other than obsolescence; or

  (b) The assets will continue to be used to provide the same or similar service to the utility or its customers.

(2) The commission shall grant its approval if the transaction is for a proper purpose and is consistent with the public interest.

Section 15. KRS 278.010 is amended to read as follows:

As used in KRS 278.010 to 278.450, and in KRS 278.990, unless the context otherwise requires:

(1) "Corporation" includes private, quasipublic, and public corporations, and all boards, agencies, and instrumentalities thereof, associations, joint-stock companies, and business trusts;

(2) "Person" includes natural persons, partnerships, corporations, and two (2) or more persons having a joint or common interest;

(3) "Utility" means any person except, for purposes of paragraphs (a), (b), (c), (d), and (f) of this subsection, a city, who owns, controls, operates, or manages any facility used or to be used for or in connection with:

  (a) The generation, production, transmission, or distribution of electricity to or for the public, for compensation, for lights, heat, power, or other uses;

  (b) The production, manufacture, storage, distribution, sale, or furnishing of natural or manufactured gas, or a mixture of same, to or for the public, for compensation, for light, heat, power, or other uses;

  (c) The transporting or conveying of gas, crude oil, or other fluid substance by pipeline to or for the public, for compensation;

  (d) The diverting, developing, pumping, impounding, distributing, or furnishing of water to or for the public, for compensation;

(e) The transmission or conveyance over wire, in air, or otherwise, of any message by telephone or telegraph for the public, for compensation; or

(f) The collection, transmission, or treatment of sewage for the public, for compensation, if the facility is a subdivision collection, transmission, or treatment facility plant that is affixed to real property and is located in a county containing a city of the first class or is a sewage collection, transmission, or treatment facility that is affixed to real property, that is located in any other county, and that is not subject to regulation by a metropolitan sewer district or any sanitation district created pursuant to KRS Chapter 220;

(4) "Retail electric supplier" means any person, firm, corporation, association, or cooperative corporation, excluding municipal corporations, engaged in the furnishing of retail electric service;

(5) "Certified territory" shall mean the areas as certified by and pursuant to KRS 278.017;

(6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is being or has been substantially used to supply retail electric service and includes all lines from the distribution substation to the electric consuming facility but does not include any transmission facilities used primarily to transfer energy in bulk;

(7) "Retail electric service" means electric service furnished to a consumer for ultimate consumption, but does not include wholesale electric energy furnished by an electric supplier to another electric supplier for resale;

(8) "Electric-consuming facilities" means everything that utilizes electric energy from a central station source;

(9) "Generation and transmission cooperative," or "G&T," means a utility formed under KRS Chapter 279 that provides electric generation and transmission services;

(10) "Distribution cooperative" means a utility formed under KRS Chapter 279 that provides retail electric service;

(11) "Facility" includes all property, means, and instrumentalities owned, operated, leased, licensed, used, furnished, or supplied for, by, or in connection with the business of any utility;

(12) "Rate" means any individual or joint fare, toll, charge, rental, or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement, or privilege in any way relating to such fare, toll, charge, rental, or other compensation, and any schedule or tariff or part of a schedule or tariff thereof;

(13) "Service" includes any practice or requirement in any way relating to the service of any utility, including the voltage of electricity, the heat units and pressure of gas, the purity, pressure, and quantity of water, and in general the quality, quantity, and pressure of any commodity or product used or to be used for or in connection with the business of any utility;

(14) "Adequate service" means having sufficient capacity to meet the maximum estimated requirements of the customer to be served during the year following the commencement of permanent service and to meet the maximum estimated requirements of other actual customers to be supplied from the same lines or facilities during such year and to assure such customers of reasonable continuity of service;

(15) "Commission" means the Public Service Commission of Kentucky;

(16) "Commissioner" means one (1) of the members of the commission;

(17) "Demand-side management" means any conservation, load management, or other utility activity intended to influence the level or pattern of customer usage or demand, including home energy assistance programs;

(18) "Affiliate" means a person that controls or that is controlled by, or is under common control with, a utility;

(19) "Control" means the power to direct the management or policies of a person through ownership, by contract, or otherwise;

(20) "CAM" means a cost allocation manual which is an indexed compilation and documentation of a company's cost allocation policies and related procedures;

(21) "Nonregulated activity" means the provision of competitive retail gas or electric services or other products or services over which the commission exerts no regulatory authority;

(22) "Nonregulated" means that which is not subject to regulation by the commission;

(23) "Regulated activity" means a service provided by a utility ***or other person***, the rates and charges of which are regulated by the commission;

(24) "USoA" means uniform system of accounts which is a system of accounts for public utilities established by the FERC and adopted by the commission;

(25) "Arm's length" means the standard of conduct under which unrelated parties, each party acting in its own best interest, would negotiate and carry out a particular transaction;

(26) "Subsidize" means the recovery of costs or the transfer of value from one (1) class of customer, activity, or business unit that is attributable to another;

(27) "Solicit" means to engage in or offer for sale a good or service, either directly or indirectly and irrespective of place or audience;

(28) "USDA" means the United States Department of Agriculture;

(29) "FERC" means the Federal Energy Regulatory Commission; and

(30) "SEC" means the Securities and Exchange Commission.

Section 16. The following KRS section is repealed:

278.025 Certificate of environmental compatibility -- Requirements.

Section 17. Whereas the regulatory agencies charged with the implementation of this Act will need time sufficient to revise administrative regulations and place them in effect prior to the expiration of the moratorium on the issuance of permits for new electricity generating facilities, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Calendar

SB 229, SCR 92, SJR 153, and **SB 184** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved to suspend the rules to allow for a Rules Committee Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **SB 222, SB 227, SB 100, SB 289, SB 184, SB 229, SJR 153,** and **SB 38** have been posted for passage in the Orders of the Day for March 27, 2002.

Representative Pullin moved to suspend the rules to act on a Resolution. Agreed.

Representative Pullin moved the adoption of the following **HR 257**:

HR 257, A RESOLUTION honoring Representative James Edmond Bruce and adjourning the House of Representatives in his honor.

WHEREAS, Representative James Edmond Bruce's tenure of 38 years in the legislature is nearly unmatched in the United States; and

WHEREAS, Representative James Edmond Bruce's extended tenure has provided him with a level of experience in the legislative arena that cannot easily be duplicated or surpassed; and

WHEREAS, Representative James Edmond Bruce has taken care over the years, and especially this year, to educate and serve as an advisor to the freshman class of legislators in the ways of the operation of the legislature and methods for the formation of good public policy; and

WHEREAS, this education and advising passes on the knowledge that is absolutely necessary to the continued operation of the legislature;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby recognize and applaud Representative James Edmond Bruce's consideration for and education of the freshman class of legislators that assures the continued successful operation of the legislature, that in turn assures that the legislature continues to serve the citizens of the Commonwealth of Kentucky in the best manner possible.

Section 2. That when the House of Representatives adjourns this day, it shall do so in honor of Representative James Edmond Bruce.

Section 3. The clerk of the House of Representatives is directed to transmit a copy of this Resolution to Representative James Edmond Bruce, 6750 Fort Campbell Boulevard, Hopkinsville, Kentucky 42240.

There being no objection **HR 257** was adopted.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 45, HB 56, HB 156, HB 381, HB 400, HB 554, HB 559, HB 617,** and **HB 626** were delivered to the Senate and signed by the President. Delivered to the Governor on March 26, 2002, at 2:43 p.m.

Orders of the Day

SB 211 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved that **SB 211** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 26, 2002, roll call on **SB 211** - Appendix.)

SB 211 was passed and the title agreed to.

Representative Rasche moved that the vote by which **SB 211** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 733, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved the adoption of the Committee Substitute to **HB 733**. Agreed.

Representative Heleringer moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 733**.

On the roll call the vote was: **Yeas 43, Nays 55**. (See March 26, 2002, roll call on **HB 733** - Appendix.)

Floor Amendment No. 1 to **HB 733** was rejected.

Representative Lindsay moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 733**. Agreed.

Representative Heleringer moved that **HB 733**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 26, 2002, roll call on **HB 733** - Appendix.)

HB 733, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Heleringer moved that the vote by which **HB 733**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 154, HB 157, HB 163, HB 358, HB 415, HB 574, HB 589, HB 618, HB 648, HB 649,** and **HCR 104** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:07 p.m.)

Orders of the Day (Continued)

SB 207 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **SB 207** be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 26, 2002, roll call on **SB 207** - Appendix.)

SB 207 was passed and the title agreed to.

Representative Burch moved that the vote by which **SB 207** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 164 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 164** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 26, 2002, roll call on **SB 164** - Appendix.)

SB 164 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 164** was passed be reconsidered and said motion be placed on the table. Agreed.

SJR 109, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hall moved that **SJR 109** be adopted.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 26, 2002, roll call on **SJR 109** - Appendix.)

SJR 109 was adopted.

Representative Hall moved that the vote by which **SJR 109** was adopted be reconsidered and said motion be placed on the table. Agreed.

SJR 156 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved that **SJR 156** be adopted.

On the roll call the vote was: **Yeas 89, Nays 2**. (See March 26, 2002, roll call on **SJR 156** - Appendix.)

SJR 156 was adopted.

Representative Cherry moved that the vote by which **SJR 156** was adopted be reconsidered and said motion be placed on the table. Agreed.

SCR 185, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeWeese moved that **SCR 185** be adopted.

Representative Marzian moved the adoption of Floor Amendment No. 1 to **SCR 185**. Agreed.

Representative DeWeese moved that **SCR 185**, as amended, be adopted.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 26, 2002, roll call on **SCR 185** - Appendix.)

SCR 185 was adopted.

Representative DeWeese moved that the vote by which **SCR 185**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 59 taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Simpson moved that **SB 59** be passed.

On the roll call the vote was: **Yeas 93, Nays 4**. (See March 26, 2002, roll call on **SB 59** - Appendix.)

SB 59 was passed and the title agreed to.

Representative Simpson moved that the vote by which **SB 59** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 203, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved the adoption of the Committee Substitute to **SB 203**. Agreed.

Representative Burch moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **SB 203**. Agreed.

Representative Adkins moved that **SB 203**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 26, 2002, roll call on **SB 203** - Appendix.)

SB 203, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Adkins moved that the vote by which **SB 203**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 11, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the Committee Substitute to **SB 11**. Agreed.

Representative Stumbo moved that **SB 11**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 26, 2002, roll call on **SB 11** - Appendix.)

SB 11, by way of Committee Substitute, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 11**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 243, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved the adoption of the Committee Substitute to **SB 243**. Agreed.

Representative Rasche moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **SB 243**. Agreed.

Representative Rasche moved that **SB 243**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 26, 2002, roll call on **SB 243** - Appendix.)

SB 243, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Rasche moved that the vote by which **SB 243**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 455, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non concurrence in Senate Amendments. Agreed.

The Senate Committee Substitute to **HB 455** is as follows:

HB 455, AN ACT relating to individuals with pervasive developmental disorders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section and Sections 2, 3, 4, and 5 of this Act, "pervasive developmental disorders" has the same meaning as in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV). The term includes five (5) diagnostic subcategories:

(a) Autistic disorder;

(b) Pervasive disorder not otherwise specified;

(c) Asperger's disorder;

(d) Rett's disorder; and

(e) Childhood disintegrative disorder.

(2) The Department for Medicaid Services shall make application, within three (3) months of the effective date of this Act, to the federal Centers for Medicare and Medicaid Services for a waiver to provide services and supports to individuals who:

(a) Are Medicaid eligible;

(b) Have an Axis I diagnosis of a pervasive developmental disorder;

(c) Are institutionalized or at risk for institutionalization; and

(d) Require a coordinated plan of medically necessary community-based behavioral health services.

(3) The waiver application shall include services that are documented to be effective in the treatment of pervasive developmental disorders and consistent with clinical best practices.

(4) The waiver application shall specify the required credentials for the providers of each service.

(5) The cabinet shall cap the number of children served under the waiver program to insure budget neutrality based upon the expenditures for children with Pervasive Developmental Disorders that were served under the IMPACT Plus Program during fiscal years 2001-2002:

(6) The cabinet shall include in the waiver application those items that are necessary to ensure the waiver operates within the designated dollars including, but not limited to, a maximum number of individuals to be served and a maximum dollar amount that can be expended for an individual.

(7) The waiver shall be coordinated with and shall not supplant services provided by schools under KRS Chapter 157 or services provided under KRS Chapters 200 and 347. Nothing in this section shall affect or limit a school district's ability to obtain Medicaid reimbursement for school-related health services.

(8) The Department for Medicaid Services shall report to the Governor, the Legislative Research Commission, and the Interim Joint Committee on Health and Welfare on the number of individuals receiving services under the waiver, the cost and type of services received, and any available nonidentifying information pertaining to individual outcomes.

Section 2. KRS 200.654 is amended to read as follows:

As used in KRS 200.650 to 200.676, unless the context requires otherwise:

(1) "Awards and contracts" means the state and federal funds designated by the cabinet for projects relating to planning, resource development, or provision of direct early intervention services, as defined in this section, to infants and toddlers with disabilities and their families;

(2) "Cabinet" means the Cabinet for Health Services;

(3) "Child find" means a system to identify, locate, and evaluate all infants and toddlers with disabilities who are eligible for early intervention services, determine which children are receiving services, and coordinate the effort with other state agencies and departments;

(4) "Council" means the Kentucky Early Intervention System Interagency Coordinating Council;

(5) "District" means one (1) of the fifteen (15) area development districts;

(6) "District early intervention committee" means an interagency coordinating committee established within each of the fifteen (15) area development districts to facilitate interagency coordination at the district level;

(7) "Early intervention services" means services for infants and toddlers with disabilities and their families delivered according to an individualized family service plan developed by the child multidisciplinary team to meet the developmental needs of eligible children, as defined in this section, and provided by entities receiving public funds using qualified personnel. The individualized family services plan is developed and the services are provided in collaboration with the families and, to the maximum extent appropriate, in natural environments, including home and community settings in which infants and toddlers without disabilities would participate. These services are necessary to enable the child to reach maximum potential. Services to be made available shall include, but not be limited to, the following:

(a) Screening services;

(b) Evaluation services;

(c) Assessment services;

(d) Service coordination;

(e) Transportation and related costs for accessing early intervention services;

(f) Family services including counseling, psychological, and social work services;

(g) Health services including medical services for diagnostic and evaluation purposes only;

(h) Nutrition services;

(i) Occupational therapy services;

(j) Physical therapy services;

(k) Communication development services;

(l) Sensory development services;

(m) Developmental intervention services;

(n) Assistive technology services; and

(o) Respite services;

(8) "Early intervention system" means the management structure established in KRS 200.654 to 200.670 and which is comprised of the interdependent array of services and activities for the provision of a statewide, comprehensive, coordinated, multidisciplinary, interagency program for infants and toddlers with disabilities and their families;

(9) "Individual family service plan" means the singular comprehensive written service plan developed by the child's multidisciplinary team, with the child's parents serving as fully participating members of the team, to be followed by all agencies and other entities involved in providing early intervention services to an infant or toddler with disabilities and the child's family;

(10) "Infants and toddlers with disabilities" and "eligible children" mean children from birth to thirty-six (36) months of age in need of early intervention services as a result of one (1) of the following circumstances:

(a) The child is experiencing developmental delays, as measured by diagnostic instruments and procedures in one (1) or more of the following skill areas: physical; cognitive; communication; social or emotional; or adaptive development;[~~ or~~]

(b) The child has a diagnosed physical or mental condition which has a high probability of resulting in developmental delay; ***or***

(c) The child has a diagnosis of pervasive developmental disorder;

(11) "Multidisciplinary team" means the child-specific group responsible for determining the services needed by the infant or toddler with disabilities and the child's family, and development of the individualized family services plan. The team for each child shall include the parent or guardian of the child and individuals representing at least two (2) applicable disciplines which may include but need not be limited to the following: physical therapy; speech therapy; social work; nursing; or education;

(12) "Point of entry" means an easily identifiable, highly accessible nonstigmatized entry into services; and

(13) "Qualified service provider" means an entity, including but not limited to an individual, program, department, or agency, responsible for the delivery of early intervention services to eligible infants and toddlers with disabilities and their families who has met the highest minimum standards of state-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the entity is providing early intervention services.

Section 3. KRS 200.660 is amended to read as follows:

The cabinet shall:

(1) Administer all funds appropriated to implement the provisions of KRS 200.650 to 200.676;

(2) Identify and coordinate all available financial resources for early intervention within the Commonwealth from federal, state, local, and private sources including, but not limited to:

(a) Title V of the Federal Social Security Act relating to maternal and child health;

(b) Title XIX of the Federal Social Security Act relating to Medicaid and the Early Periodic Screening Diagnostic and Treatment (EPSDT) program;

(c) The Federal Head Start Act;

(d) The Federal Individuals with Disabilities Education Act, Parts B and H;

(e) The Federal Elementary and Secondary Education Act of 1964 Title I, Chapter I, Part B, Subpart 2 as amended;

(f) The Federal Developmentally Disabled Assistance and Bill of Rights Act, P.L. 100-146;

(g) Other federal programs; and

(h) Private insurance.

(3) Develop a sliding fee scale of the cost of early intervention services to families, including those circumstances where no fee shall be required;

(4) ***Make available, in addition to the services specified in subsection (7) of Section 2 of this Act, social skill development and behavioral therapy services to infants and toddlers with a diagnosis of pervasive developmental disorders;***

(5) Enter into contracts with service providers within a local community aided by the district committee in identifying providers;

(6)[~~(5)~~] Develop procedures to monitor and evaluate services that are provided to infants and toddlers with disabilities and their families;

(7)[~~(6)~~] Develop procedures to ensure that early intervention services identified on the individualized family service plan are provided to eligible infants and toddlers with disabilities and their families in a timely manner pending resolution of any disputes among public agencies or service providers; and

(8)[~~(7)~~] In conjunction with the council and district early intervention committees, promulgate administrative regulations, pursuant to KRS Chapter 13A, necessary to implement the provisions of KRS 200.650 to 200.676.

Section 4. KRS 347.020 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Active treatment" means provision of services as specified in an individualized service plan. These services may include, but are not limited to activities, experiences and therapy which are part of a professionally developed and supervised program of health, social, habilitative and developmental services;

(2) "Case management services" means all such services to persons with developmental disabilities as will assist them in gaining access to needed social, medical, legal, educational and other services, and such term includes:

  (a) Follow-along services which assure, through a continuing relationship between an agency or provider and a person with a developmental disability and the person's parent, if the person is a minor, or guardian, if the person has been adjudicated legally disabled, that the changing needs of the person and the family are recognized and appropriately met; and

  (b) Coordinated services which provide to persons with developmental disabilities support, access to, and coordination of other services, information on programs and services and monitoring of the person's progress;

(3) "Habilitation" means the process described in the individualized service plan by which a person is assisted to acquire and maintain physical, mental and social skills which will enable him to live most efficiently and effectively in the least restrictive individually appropriate environment;

(4) "Individualized service plan (ISP)" means a written plan of service based on an interdisciplinary approach which is revised as needed but no less than annually. The plan shall be developed by the interdisciplinary team and shall contain a statement of:

  (a) The nature of the specific mental, physical, social and developmental needs of the person;

  (b) The specific services to be provided under this chapter, those services being provided under other state and federal laws and a schedule for the provision of said services; and

  (c) The least restrictive individually appropriate environment for the provision of services and active treatment;

(5) "Individually appropriate" means responsive to the needs of the person as determined through interdisciplinary assessment and provided pursuant to an individualized service plan;

(6) "Interdisciplinary team (IDT)" means those persons who work most directly with the individual in each of the professions, disciplines and service areas that provide active treatment, services and evaluations for the person, including the persons set forth in KRS 347.030(6). Prior to relocation to a more individually appropriate placement in accordance with his individualized service plan, the IDT shall include staff representing the current placement and staff representing the proposed placement;

(7) "Least restrictive environment" means the individually appropriate residence and service delivery setting, including the entire array of residential alternatives as defined by this chapter, in which the person can function most effectively and independently, gaining to the maximum extent possible, control over his environment, and shall be based solely on his needs as identified in his individualized service plan. This definition shall not be construed to abolish any existing residential or institutional alternatives as defined by this chapter;

(8) "Monitor" means to conduct a systematic, coordinated, objective qualitative review of services by a body independent of the agencies providing services under this chapter. This body shall include persons with developmental disabilities, parents, guardians and professionals;

(9) "Person with a developmental disability" means a person with a long term disability which:

  (a) Is attributable to a developmental or physical impairment or combination of developmental and physical impairments***, including pervasive developmental disorders***;

  (b) Is likely to continue indefinitely;

  (c) Results in substantial functional limitations in at least three (3) of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living and economic self-sufficiency;

  (d) Requires special, generic or interdisciplinary care and active treatment and services of extended duration; and

  (e) Is manifested before the person attains age twenty-two (22); and

(10) "Representative" means any individual who can advise and advocate for a person with developmental disabilities and who shall serve at the request and pleasure of such person; provided, however, if the person with developmental disabilities is a minor or is legally disabled and has not requested a representative, the parent or guardian may request a representative to assist on behalf of a person with developmental disabilities;

(11) "Residence" or "residential alternative" means the living space occupied by the person with a developmental disability, including single-person homes, natural family homes, institutional facilities and all other types of living arrangements; and

(12) "Services" means such residential, developmental, vocational, support and related services, training and active treatment in

the least restrictive, individually appropriate environment to provide for continuing development of independent or interdependent living skills of persons with developmental disabilities. These services include, but are not restricted to, diagnostic services; child development services; respite care; domestic assistance; consumer-directed attendant care; habilitation and rehabilitation***, including behavioral therapies***; speech, physical and occupational therapy; recreational therapy and activities; training for parents, guardians and care providers as requested by said persons; transportation; equipment; development of language and communication skills; interpreters; family counseling and case management.

Section 5. KRS 387.510 is amended to read as follows:

As used in KRS 387.500 to 387.770 and 387.990:

(1) "Conservator" means an individual, agency, or corporation appointed by the court to manage the financial resources of a disabled person.

(2) "Limited conservator" means an individual, agency, or corporation appointed by the court to assist in managing the financial resources of a partially disabled person and whose powers and duties have been specifically enumerated by court order.

(3) "Guardian" means any individual, agency, or corporation appointed by the court to have full care, custody, and control of a disabled person and to manage his financial resources.

(4) "Limited guardian" means a guardian who possesses fewer than all of the legal powers and duties of a full guardian, and whose powers and duties have been specifically enumerated by court order.

(5) "Standby" guardian or conservator means a person or entity designated by the court to assume the powers and duties assigned to a limited guardian, guardian, limited conservator, or conservator upon his death, resignation, removal, or incapacity.

(6) "Testamentary" guardian or conservator means an individual, agency, or corporation nominated in the will of a limited guardian, guardian, limited conservator, or conservator to succeed the testator in that capacity upon his death.

(7) "Developmental disability" means a severe, chronic disability of a person which:

(a) Is attributable to a mental or physical impairment or combination of mental and physical impairments***, including pervasive developmental disorder***;

(b) Is manifested before the person attains age twenty-two (22);

(c) Is likely to continue indefinitely;

(d) Results in substantial functional limitations in three (3) or more of the following areas of major life activity: 1. self-care; 2. receptive and expressive language; 3. learning; 4. mobility; 5. self-direction; 6. capacity for independent living; and 7. economic self-sufficiency; and

(e) Reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated.

(8) "Disabled" means a legal, not a medical disability, and is measured by functional inabilities. It refers to any person fourteen (14) years of age or older who is:

(a) Unable to make informed decisions with respect to his personal affairs to such an extent that he lacks the capacity to provide for his physical health and safety, including but not limited to health care, food, shelter, clothing, or personal hygiene; or

(b) Unable to make informed decisions with respect to his financial resources to such an extent that he lacks the capacity to manage his property effectively by those actions necessary to obtain, administer, and dispose of both real and personal property.

Such inability shall be evidenced by acts or occurrences within six (6) months prior to the filing of the petition for guardianship or conservatorship and shall not be evidenced solely by isolated instances of negligence, improvidence, or other behavior.

(9) "Partially disabled" refers to an individual who lacks the capacity to manage some of his personal affairs and/or financial resources as provided in subsection (8) of this section, but who cannot be found to be fully disabled as provided therein.

(10) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of his affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors.

(11) "Interdisciplinary evaluation report" means a report of an evaluation of a respondent performed pursuant to the provisions of KRS 387.540 to determine whether he is partially disabled or disabled as defined herein.

(12) "Interested person or entity" means an adult relative or friend of the respondent or ward, an official or representative of a public or private agency, corporation, or association concerned with that person's welfare, or any other person found suitable by the court.

(13) "Petitioner" means a person who institutes a proceeding under KRS 387.530.

(14) "Respondent" means an individual alleged to be a partially disabled or disabled person.

(15) "Ward" means a person for whom a limited guardian, guardian, limited conservator, or conservator has been appointed.

(16) "Committee" means a person appointed by the court prior to July 1, 1982, to have full care, custody, and control of a disabled person and his estate.

Section 6. KRS 205.6317 is amended to read as follows:

(1) As used in this section:

(a) "Supports for Community Living Waiver Program" means funding from the Department for Medicaid Services to serve individuals with mental retardation or other developmental disabilities who qualify for intermediate care and choose to live in a community-based setting; and

(b) "Slots" means the dedication of provider or financial resources for services to persons with mental retardation or other developmental disabilities.

(2) The Department for Medicaid Services shall develop and implement flexible reimbursement and payment strategies that reflect the individually determined needs for services and supports by persons with mental retardation and other developmental disabilities participating in the Supports for Community Living Waiver Program.

(3) The Department for Medicaid Services shall allocate slots to the fourteen (14) community mental health regions based on percentage of total population.

(4) The Department for Medicaid Services shall reallocate underutilized slots to address statewide needs and shall reallocate slots in emergency situations to address unmet needs for services and supports.

(5) Within six (6) months after April 14, 2000, the Department for Medicaid Services shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the requirements of this section.

(6) Funds for the Supports for Community Living Waiver Program shall be appropriated only for direct services to qualified individuals and any unexpended funds shall not lapse but shall be carried forward to the next fiscal year and shall be used for the same purpose.

Representative Brinkman moved that the House concur in the Senate Committee Substitute to **HB 455**. Agreed.

Representative Brinkman moved that **HB 455**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 26, 2002, roll call on **HB 455** - Appendix)

HB 455, as amended, by the Senate, was passed.

The Senate Floor Amendment No. 1 Title to **HB 455** is as follows:

HB 455, By amending the title to read "AN ACT relating to services for individuals with developmental disorders and mental retardation."

Representative Brinkman moved that the House concur in Senate Floor Amendment No. 1 Title to **HB 455**. Agreed.

Representative Brinkman moved that the vote by which **HB 455**, as amended, by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 644, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non concurrence in Senate Amendment. Agreed.

The Senate Floor Amendment No. 1 to **HB 644** is as follows:

HB 644, On page 1, line 4 after "***product***" insert "***or combination of drug products***";

On page 1, line 6 delete "***product***" and insert in lieu thereof "***drug product or combination of drug products***";

On page 1, line 9 after "***product***" insert "***or combination of drug products***";

On page 1, line 12 after "***product***" insert "***or combination of drug products***";

On page 1, line 14 after "***product***" insert "***or combination of drug products***";

On page 2, line 10 after "***product***" insert "***or combination of drug products***";

On page 2, line 12 after "***product***" insert "***or combination of drug products***";

On page 2, line 14 after "***dispenses the drug product***" insert "***or combination of drug products***"; and

On page 2, line 14 after "***how the drug product***" insert "***or combination of drug products***".

Representative Crall moved that the House concur in Senate Floor Amendment No. 1 to **HB 644**. Agreed.

Representative Crall moved that **HB 644**, as amended, by the Senate, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 26, 2002, roll call on **HB 644** - Appendix)

HB 644, as amended by the Senate, was passed and the title agreed to.

Representative Crall moved that the vote by which **HB 644**, as amended, by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 314, with Senate Committee Substitute taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage for consideration of the Free Conference Committee Report. Agreed.

Representative Hoffman moved the adoption of the following Free Conference Committee Report on **HB 314**. Agreed.

The Free Conference Committee on **HB 314** has met as provided in the Rules of the House and Senate and hereby reports the following be adopted: Adopt the provisions of the Senate Commitee Substitute to **HB 314** with the following changes:

The following Free Conference Committee action:

In HB 314 SCS, beginning on Page 1, line 1, and continuing through Page 16, line 18, by deleting the bill in its entirety,

and by inserting in lieu thereof the following new language;

"SECTION 1. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 68.197(4), a county that enacts an occupational license fee under the authority of KRS 67.083 prior to attaining a population of thirty thousand (30,000) shall not be required to allow a credit against the county occupational license fee for an occupational license fee paid to a city within the county when it is determined that the population of the county exceeds thirty thousand (30,000).

(2) If prior to the effective date of this Act, a county voluntarily granted a credit against the county occupational license fee under the terms of an ordinance, interlocal agreement, or other agreement with a city, the county shall not eliminate the credit after it is determined that the population of the county exceeds thirty thousand (30,000).

(3) After the effective date of this Act, a county that enacts a new county occupational license fee or increases a county occupational license fee, after it is determined that the county population exceeds thirty thousand (30,000), shall be required to allow the credit against the city fee required by KRS 68.197(4) to the extent of the increase or new fee.

(4) For purposes of this section, the county population shall be determined based only on the official decennial census by the United States Bureau of the Census.".

Signed: March 22, 2002 - Representatives J. Adams, Vincent, Simpson, and Hoffman; Senators Roeding, Palmer, and Seum. The above-named members, in separate votes by house, all concur in the provisions of this report.

On the roll call the vote was: **Yeas 87, Nays 5**. (See March 26, 2002, roll call on **HB 314** - Appendix.)

The Free Conference Committee Report on **HB 314** was adopted.

Representative Hoffman moved that **HB 314**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: **Yeas 85, Nays 8**. (See March 26, 2002, roll call on **HB 314** - Appendix.)

HB 314, as amended, by the Free Conference Committee Report, was passed and the title agreed to.

Representative Hoffman moved that the vote by which **HB 314**, as amended, by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 97 taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved to withdraw the motion to take **HB 97** from the Orders of the Day. Agreed.

Representative Stumbo moved the adoption of the following Conference Committee Report on **HB 97**.

The Conference Committee on **HB 97** has met as provided in the Rules of the House and Senate and hereby reports the following be adopted: Cannot Agree.

Signed: March 25, 2002 - Representatives Riggs, Damron, J. Turner, and Gray; Senators Palmer, Stivers, and Borders. The above-named members, in separate votes by house, all concur in the provisions of this report.

The Conference Committee Report on **HB 97** was adopted by voice vote.

The Speaker appointed Representative Riggs, Chairman; Representative Damron, Representative Gray, and Representative J. Turner, previous appointed members of the Conference Committee, to be on the Free Conference Committee on **HB 97**.

Motions, petitions, and Communications

Representative Stumbo moved to waive the posting requirement retroactively on the following: **SB 210, SB 273, SB 139, SB 257, SB 33, HR 32,** and **SB 223**. Agreed.

Representative Stumbo moved that the following Bills be recommitted:

Appropriations and Revenue: **SB 242**

Health and Welfare: **SB 142**

Representative J. Arnold moved the adoption of the following **Legislative Citation No. 107**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in honor of Suzanna and Robert M. Davis as these esteemed citizens celebrate their Golden Wedding Anniversary. Married on March 9, 1952, at the Bethany Baptist Church in the Pond Fork community by the Reverend Floyd Roebuck, this devoted couple is commended as they rejoice in their years of beloved companionship. This honorable body holds in high esteem their ability to cultivate and nurture a loving family and cherished friendships. Representative John A. Arnold, Jr. recognizes these rare and unique virtues in Mr. and Mrs. Davis and joins with their devoted children, Laura, Blane and Hunter; their six grandchildren; and other cherished family members and friends in wishing for them many more years of happiness and fulfillment. Done in Frankfort, Kentucky, this twenty-sixth day of March, in the year two thousand and two.

Legislative Citation No. 107 was adopted without objection.

Representative Stumbo moved to suspend the rules for the Introduction of Resolutions, and for Committee Reports. Agreed.

Introduction of Bills and Resolutions

HR 263, by Representative Colter: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Squire Baker.

HR 264, by Representatives Marzian and Feeley: A RESOLUTION adjourning the House of Representatives in honor of the Louisville Bats.

Motions, Petitions, and Communications (Continued)

Representative Colter moved the adoption of the following **HR 263**:

HR 263, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Squire Baker.

With deepest respect and admiration, we pay homage and tribute to Squire Baker, and we pause in silent reverence for his soul.

WHEREAS, Squire Baker was born on March 18, 1911, a native of Oneida, Clay County, Kentucky, and longtime resident of Manchester, Kentucky, and he traversed these earthly bounds on March 24, 2002; and

WHEREAS, Squire Baker was the loving son of the late George and Lillie Hensley Baker, he was the devoted husband of Evelyn Payne Baker with whom he entered into the bonds of holy matrimony on July 25, 1947; he was the loving father of a son, Fred Baker, of Oneida, and five loving daughters, Margaret Day, Kay Garrison, and Betty Sue Smith, all of Manchester, Janet Hibbard of Lexington, and Robin Arnold of Nashville, Tennessee, and he was the proud grandfather of eleven grandchildren and four great-grandchildren; and

WHEREAS, Squire Baker graduated from the Oneida Baptist Institute in 1930, and after attending Eastern State Teacher's College, he taught school for eight years in the Clay County School system; after which time, and during the Great Depression, he joined the Civilian Conservation Corps and was assigned to a unit in California, where he worked for five dollars a month and his family was sent twenty-five dollars a month; and

WHEREAS, Squire Baker served his country with pride and distinction in the United States Air Force during World War II, and while taking part in bombing runs over Germany, his plane was shot down on December 1, 1943, where he parachuted to safety, but was then captured by the Germans as he landed, and was incarcerated at Stalag XVIIB for eighteen months, after which he was forced to march with his group 300 miles across Austria, until they were freed by the Americans; and

WHEREAS, Squire Baker was an integral part of the Clay County community where he was a loyal member and former chairman of the Fifth District Republican Party, and he was elected to the office of County Court Clerk of Clay County, serving in that capacity for thirty-six years; and

WHEREAS, Squire Baker was an active and involved citizen in the Clay County community where he was a member of the Manchester Kiwanis Club, the Board of Trustees of the Oneida Baptist Institute, the Board of Directors of the First National Bank of Manchester, a charter member of the East Kentucky Corporation, and a member of the Clay County Chamber of Commerce where he was chosen Man of the Year in 1996; and he was a member of the Veterans of Foreign Wars and the Disabled American Veterans, the American Ex-Prisoners of War organization, and the Stalag XVIIB Prisoner of War organization; and

WHEREAS, Squire Baker was a member of three Masonic organizations, and a devout member of the Manchester Baptist Church, where his funeral services were held on March 26, 2002; and

WHEREAS, the passing of Squire Baker has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Squire Baker, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Squire Baker.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Evelyn Payne Baker, 94 Fox Hollow Road, Manchester, Kentucky 40962.

There being no objection **HR 263** was adopted.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Judiciary: **SB 273, SB 139**

Health and Welfare: **HB 91, SB 91, SB 216**

Motions, Petitions, and Communications (Continued)

Representative Palumbo moved the adoption of the following **Legislative Citation No. 109**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Rotary International Districts 6670, 6710 and 6740 as members representing these notable organizations gather in Lexington, Kentucky, for the purpose of furthering humanitarian causes and educational opportunities for deserving persons throughout the world. Furthermore, Rotary International is an extraordinary organization and is afforded the deepest gratitude for it's immense and valuable work to develop and support the Polio Plus Program, a humanitarian effort, which in cooperation with the United Nations World Health Organization, the United States Centers for Disease Control and the United Nations Children's Fund, seeks to eliminate the terrible disease, polio. The success of this program is demonstrated through the prevention of over 500,000 cases of polio each year. The members of this august body are pleased to join Speaker Jody Richards, Representative Jesse Crenshaw, Representative Stan Lee, Representative Ruth Ann Palumbo, Representative Kathy W. Stein and Representative Susan Westrom in applauding the extraordinary work of these Rotary Districts and in extending to them a sincere welcome to Lexington, Faith County and the Commonwealth of Kentucky as they gather on the days of May 17-19, 2002. Done in Frankfort, Kentucky, this twenty-sixth day of March, in the year two thousand and two.

Legislative Citation No. 109 was adopted without objection.

Representative P. Clark moved the adoption of the following **HR 258**:

HR 258, A RESOLUTION urging Archbishop Thomas Kelly and the Archdiocese of Louisville to provide assistance to Holy Rosary Academy in its bid to continue its service to the Louisville community.

WHEREAS, Holy Rosary Academy was founded in 1867 by the Dominican Sisters of Saint Catherine, and merged with Spalding University in 1997; and

WHEREAS, Holy Rosary Academy is the only all girls Catholic high school available to families in the South End of Louisville; and

WHEREAS, in February, the board of trustees of Spalding University voted to close the school due to low enrollment and financial difficulties; and

WHEREAS, since the vote, supporters of the school have raised $800,000 and developed a plan to turn the school around; and

WHEREAS, despite community support for the school, Spalding University has refused to reconsider the decision or to sell the school to its supporters; and

WHEREAS, as a Catholic high school in Louisville, Holy Rosary Academy is subject to the jurisdiction of the Catholic Archdiocese of Louisville; and

WHEREAS, as Archbishop of the Archdiocese of Louisville, Archbishop Thomas Kelly has demonstrated his interest in education through his current duties as chancellor and trustee of Bellarmine College and vice chairman of the Catholic Education Foundation; and

WHEREAS, Archbishop Kelly has also served as chairman of the board of directors of the National Catholic Education Association and, in 1996, spearheaded the very successful Endowment for Excellence, a capital campaign for Catholic education; and

WHEREAS, Archbishop Kelly clearly maintains an interest and influence in the area of Catholic education; and

WHEREAS, this distinguished body joins Archbishop Thomas Kelly in his great interest in the value of education and community;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body urges Archbishop Thomas Kelly to review Spalding University's decision to close Holy Rosary Academy at the end of the 2001-2002 school year, and to urge Spalding University to reconsider this decision.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Archbishop Thomas Kelly, Archdiocese of Louisville, P.O. Box 1073, Louisville, Kentucky 40201-1073.

There being no objection **HR 258** was adopted.

Representative Nelson moved the adoption of the following **Legislative Citation No. 108**.

The House of Representatives of the Commonwealth of Kentucky hereby joins with Representative Rick Nelson, of District 87, as he pays tribute to his colleagues for their remarkable service to the Commonwealth of Kentucky. Whereas, Representatives Charles R. Geveden, District 1; Fred Nesler, District 2; Frank Rasche, District 3; Mike Cherry, District 4; Robert "Buddy" Buckingham, District 5; J.R. Gray, District 6; John A. Arnold, Jr., District 7; John W. Adams, District 8; James E. Bruce, District 9; Eddie Ballard, District 10; Gross C. Lindsay, District 11; Jim Gooch, Jr., District 12; Brian Crall, District 13; Mark A. Treesh, District 14; Brent Yonts, District 15; Sheldon E. Baugh; District 16; Woody Allen; District 17; Dwight Butler, District 18; Dottie J. Sims, District 19; Jody Richards, Speaker of the House, District 20; Roger Thomas, District 21; Rob Wilkey, District 22; Stephen R. Nunn, District 23; William U. Scott, District 24; Jimmie Lee, District 25; Mike Weaver, District 26; James H. Thompson, District 27; Charles Miller, District 28; Kevin D. Bratcher, District 29; Tom Burch, District 30; Steven Riggs, District 31; Scott W. Brinkman, District 32; Bob Heleringer, District 33; Mary Lou Marzian, District 34; Jim Wayne, District 35; Lonnie Napier, District 36; Perry B. Clark, District 37; Denver Butler, District 38; Robert R. Damron, District 39; Dennis Horlander, District 40; Tom Riner, District 41; Reginald K. Meeks, District 42; Paul Bather, District 43; Joni Jenkins, District 44; Stan Lee, District 45; Larry Clark, District 46; Ron Crimm, District 47; Bob M. DeWeese, District 48; Larry L. Belcher, District 49; Jodie Haydon, District 50; Ross Mobley, District 51; Kenneth H. Upchurch, District 52; James R. Comer, District 53; John W.D. Bowling, District 54; Jack L. Coleman, District 55; Joe Barrows, District 56; Gippy Graham, District 57; Gary Tapp, District 58; Tim Feeley, District 59; Paul H. Marcotte, District 60; Royce W. Adams, District 61; Charlie Hoffman, District 62; Jon E. Draud, District 63; Thomas Kerr, District 64; Arnold Simpson, District 65; Charles R. Walton, District 66; Jim Callahan, District 67; Joseph M. Fischer, District 68; Jon David Reinhardt, District 69; Mitchel Denham, District 70; John Will Stacy, District 71; Carolyn Belcher, District 72; Don Pasley, District 73; Adrian K. Arnold, District 74; Kathy W. Stein; District 75; Ruth Ann Palumbo, District 76; Jesse Crenshaw, District 77; Thomas M. McKee, District 78; Susan Westrom, District 79; Danny R. Ford, District 80; Harry Moberly, Jr., District 81; Charles L. Siler, District 82; Jeffrey Hoover, District 83; Brandon Smith, District 84; Tommy Turner, District 85; Jim Stewart, District 86; Johnnie L. Turner, District 88; Marie L. Rader, District 89; Barbara White

Colter, District 90; Howard Cornett, District 91; Phillip Childers, District 92; W. Keith Hall, District 93; Ira E. Branham, District 94; Gregory D. Stumbo, District 95; Robin L. Webb, District 96; Hubert Collins, District 97; Tanya Pullin, District 98; Rocky Adkins, District 99; John Vincent, District 100; have each worked with the utmost diligence to represent the needs and concerns of their constituents and to serve the greater good of all those citizens across this great Commonwealth, the members do take this moment to acknowledge the wealth of diverse contributions made by each of these members of the House of Representatives during the Regular Session of the 2002 Kentucky General Assembly. Done in Frankfort, Kentucky, this twenty-sixth day of March, in the year two thousand and two.

Legislative Citation No. 108 was adopted without objection.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 154, HB 157, HB 163, HB 358, HB 415, HB 574, HB 589, HB 618, HB 648, HB 649,** and **HCR 104** were delivered to the Senate and signed by the President. Delivered to the Governor on March 26, 2002, at 4:41 p.m.

The Committee on Enrollment reported that **SB 166, SB 196, SB 239, SJR 3, SB 147,** and **SB 153** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:45 p.m.)

Motions, Petitions, and Communications (Continued)

Representative C. Belcher moved that **HB 776** be withdrawn. Agreed.

Representative Webb moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Webb moved that she be recorded as voting "yea" on Floor Amendment No. 1 to the Committee Substitute to **HB 733**. Agreed.

Representative Meeks moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Meeks moved that he be recorded as voting "yea" on **SB 211**. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nesler moved that he be recorded as voting "yea" on **SB 211**. Agreed.

Representative Bowling moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Bowling moved that he be recorded as voting "yea" on **SB 59, SB 164, SB 203, SB 207, SCR 185, SJR 109,** and **SJR 156**. Agreed.

Representative Branham moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Branham moved that he be recorded as voting "yea" on **HJR 93, SB 13, SB 41, SB 121, SB 146, SB 153, SB 168, SB 176, SB 187, SB 230,** and **SCR 34**. Agreed.

Floor Amendments

Floor Amendment No. 49 Title to **HB 768**, by Representative Callahan:

HB 768, By amending the title to read as follows: "AN ACT relating to electronic gaming with racing involvement as a part of the state lottery, making an appropriation therefor, and declaring an emergency."

Floor Amendment No. 2 to **SB 100**, by Representative Marzian:

SB 100, On page 1, delete lines 11 through 21 in their entirety and insert in lieu thereof:

"*(b) If a deputy sheriff or peace officer who has entered into a contract authorized under this subsection accepts employment as a peace officer with another law enforcement agency, that deputy sheriff or peace officer may be required to reimburse the law enforcement agency that initially hired the deputy sheriff or peace officer for the training on a prorated basis. If another agency hires a trained officer who is under contract, the hiring agency may buy out by a lump-sum payment the remaining portion of the officer's contract. If the hiring agency does not elect to buy out by a lump-sum payment the officer's contract, the hiring agency may deduct from the officer's pay an amount equal to five percent (5%) to fifteen percent (15%) of his or her net pay to be forwarded to the agency who holds the officer's contract until that agency is paid in full for the training costs as set out in* *this subsection. There shall be no interest charged on the money to be repaid. Training costs shall include the actual salary and benefits paid while the deputy sheriff or peace officer is in training at a Kentucky Law Enforcement Council (KLEC) certified training academy. This shall include the actual cost of any test used in the hiring process including physical, psychological, polygraph, or medical testing. Background investigation costs not to exceed one thousand dollars ($1,000) shall also be included. In addition, the actual costs for uniforms and equipment not retained by the agency when the deputy sheriff or peace officer leaves employment shall be included.*"; and

On page 1, line 22, delete lines 22 through 25 in their entirety and insert in lieu thereof:

"*(c) The amount of reimbursement authorized by this subsection shall be prorated based upon the percentage of time that the deputy sheriff or peace officer completed his or her employment contract minus credit for the number of months worked after training.*"; and

On page 2, delete lines 1 and 2 in their entirety; and

On page 2, delete lines 3 through 14 in their entirety and insert in lieu thereof:

"*(2) If a peace officer who has been employed by a state law enforcement agency for three (3) years or less accepts employment as a peace officer with a city or local law enforcement agency that peace officer may be required to reimburse the state law enforcement agency that initially hired the peace officer for the training on a prorated basis. The city or local hiring agency may buy out by a lump-sum payment the remaining portion of the officer's contract. If the hiring agency does not elect to buy out by a lump-sum payment the officer's contract, the hiring agency may deduct from the officer's pay an amount equal to five percent (5%) to fifteen percent (15%) of his or her net pay to be forwarded to the state agency who holds the officer's contract until that agency is paid in full for the training costs as set out in this subsection. There shall be no interest charged on the money to be repaid. Training costs shall include the actual salary and benefits paid while the peace officer is in training at a Kentucky Law Enforcement Council (KLEC) certified training academy. This shall include the actual cost of any test used in the hiring process including physical, psychological, polygraph, or medical testing. Background investigation costs not to exceed one thousand dollars ($1,000) shall also be included. In addition, the actual costs for uniforms and equipment not retained by the agency when the peace officer leaves employment.*".

Floor Amendment No. 3 to **SB 100**, by Representative Riggs:

SB 100, On page 1, line 7, delete the words "*three (3) years*" and insert in lieu thereof "*two (2) years*"; and

On page 2, line 4, delete the words "*three (3) years*" and insert in lieu thereof "*two (2) years*".".

Floor Amendment No. 2 to the Committee Substitute to **SB 238**, by Representative J. Lee:

SB 238, On page 1, between lines 8 and 9, insert a new Section 2 to read as follows:

"Section 2. KRS 177.037 is amended to read as follows:

(1) The Department of Highways may install and maintain signs recognizing the boundary of a city, town, or community whether incorporated or unincorporated. These signs shall be installed regardless of whether the community has a post office, if the Department of Highways had previously erected signs recognizing the city, town or community. The signs shall be placed at the official community boundaries. If the community does not have official boundaries, the signs shall be installed at the community boundaries as determined by the built-up area.

(2) The department shall install and maintain signs at the boundaries of any city of the first through sixth class or an unincorporated urban place as defined in KRS 177.366, regardless of whether the city or unincorporated urban place has a post office or zip code, if the city or unincorporated urban place:

(a) Submits a written request for not more than two (2) signs:

1. To honor the birthplace of a person important to the city or unincorporated urban place; or

2. To honor an event or accomplishment important to the city or unincorporated urban place; and

(b) Agrees to pay for the actual cost to make and install the signs.

(3) The department shall work with the city or unincorporated urban place to determine the appropriate place to install the signs required under subsection (2) of this section. If an agreement cannot be reached on the appropriate place to install the signs, the site selected by the city or unincorporated urban place shall take precedence and the department shall not prohibit and shall not delay the installation of the signs.

(4) Each city or unincorporated urban place requesting a sign under subsection (2) of this section shall be limited to two (2) signs. Requests for additional signs authorized under subsection (2) of this section in excess of two (2) by the same city or unincorporated urban place shall be consolidated into a single sign.

(5) All statutes to the contrary notwithstanding, the Transportation Cabinet shall amend its policies and administrative regulations in effect on the effective date of this Act to comply with the provisions of this section, and shall not subsequently adopt new policies or promulgate new administrative regulations to the contrary."; and

On page 1, line 9, renumber existing "Section 2" as "Section 3".

Floor Amendment No. 1 to **SB 38**, by Representative Marzian:

SB 38, On page 43, on line 2, after the word "*mastectomy*" by inserting the following:

"*and women's reproductive health services*".

Floor Amendment No. 50 to Floor Amendment 21 to the Committee Substitute to **HB 768**, by Representative J. Arnold:

HB 768, On page 1, line 3, to page 111, line 13, delete all language and insert the following in lieu thereof:

"Section 1. It is proposed that Section 226 of the Constitution of Kentucky be amended to read as follows:

(1) The General Assembly may establish a Kentucky state lottery and may establish a state lottery to be conducted in cooperation with other states. Any lottery so established shall be operated by or on behalf of the Commonwealth of Kentucky.

(2) The General Assembly may by general law permit charitable lotteries and charitable gift enterprises and, if it does so, it shall:

(a) Define what constitutes a charity or charitable organization;

(b) Define the types of charitable lotteries and charitable gift enterprises which may be engaged in;

(c) Set standards for the conduct of charitable lotteries and charitable gift enterprises by charitable organizations;

(d) Provide for means of accounting for the amount of money raised by lotteries and gift enterprises and for assuring its expenditure only for charitable purposes;

(e) Provide suitable penalties for violation of statutes relating to charitable lotteries and charitable gift enterprises; and

(f) Pass whatever other general laws the General Assembly deems necessary to assure the proper functioning, honesty, and integrity of charitable lotteries and charitable gift enterprises, and the charitable purposes for which the funds are expended.

(3) *The General Assembly may by general law permit the operation of electronic gaming devices at racetracks and the operation of electronic gaming and other games of chance at up to seven (7) gaming facilities on the state's navigable rivers or on or adjacent to the river's banks, and, if it does so, shall:*

(a) Provide a means whereby the sense of the people of Kentucky shall be taken, prior to the institution of electronic gaming devices at existing racetracks and electronic gaming devices and other games of chance at gaming facilities, whether electronic gaming devices at racetracks and electronic gaming devices and other games of chance at gaming facilities shall be allowed by submission to the voters of this state for their ratification or rejection by a majority of the votes cast at a general election in such manner as shall be provided by law;

(b) Pass general laws to ensure the proper functioning, honesty, and integrity of electronic gaming at racetracks and the organizations conducting such gaming and the conduct of electronic gaming and other games of chance at up to seven (7) gaming facilities. The laws shall include a means of accounting for the amount of money received by the racetracks and gaming facilities through the conduct of electronic games and other games of chance and provide suitable penalties for violation of statutes relating to charitable lotteries and charitable gift enterprises;

(c) Include in the law provisions by which the voters in the county, urban-county, charter-county, or consolidated local government where the racetrack or the gaming facility is located or is to be located shall by local referendum approve the operation of electronic games at the racetrack and the operation of electronic games and other games of chance at the gaming facility at a nominating primary or a regular election in accordance with general election laws; and

(d) Provide a means by which the city, county, urban-county, charter-county, or consolidated local government where the ractrack or facility is located can impose a tax on the gross receipts of the gaming facility or racetrack located in the city, county, urban-county, charter-county, or consolidated local government. The option shall include but not be limited to an occupational tax, a franchise tax, a user fee, or an income tax.

(4) Except as provided in this section, lotteries and gift enterprises are forbidden, and no privileges shall be granted for such purposes, and none shall be exercised, and no schemes for similar purposes shall be allowed. The General Assembly shall enforce this section by proper penalties. All lottery privileges or charters heretofore granted are revoked.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.".

Floor Amendment No. 51 Title to **HB 768**, by Representative J. Arnold:

HB 768, Amend title to read: "AN ACT proposing an amendment to Section 226 of the Constitution of Kentucky relating to lotteries.".

Floor Amendment No. 52 to Floor Amendment 21 to Committee Substitute to **HB 768**, by Representative J. Arnold:

HB 768, On page 1, line 13, after "***to***" by deleting "***the state's existing racetracks***" and inserting "***selected locations in the state; and***" in lieu thereof;

On page 1, line 14 by deleting the line in its entirety;

On page 2, line 10, after "***industry***" by inserting "***and other selected facilities***";

On page 2, line 17, by deleting "***exclusively***";

On page 3, line 1, after "***racing industry***" by deleting "***has***" and inserting "***and other selected facilities have***" in lieu thereof;

On page 3, line 10, after "***licensed***" by deleting "***racetrack's***";

On page 4, line 20, after "***operator***" by inserting "***or a licensed full gaming facility***";

On page 7, line 16, by deleting "***racetrack in Kentucky which is an***";

On page 7, line 18, after "***to***" by deleting "***a racetrack in Kentucky licensed as***";

On page 8, line 2, after "***KRS Chapter 230***" by inserting "***and a hotel licensed by the Lottery Corporation as a full gaming facility***";

On page 9, line 23, after "***;***", by deleting "***and***";

On page 9, line 25, by deleting "***.***" and inserting "***;***" in lieu thereof;

On page 9, between lines 25 and 26, by inserting the following:

"***(23) "Full gaming facility license" means authorization granted by the Lottery Corporation to a person or entity to operate electronic devices and other games of chance. Except where expressly provided, a person with a full gaming facility license shall meet all provisions applicable to the electronic gaming device operator; and***

(24) "Other games of chance" means games authorized by the commission which include but are not limited to faro, monte, roulette, fan-tan, seven-and-a-half, big injun, chuck-a-luck, wheel of fortune, chemin de fer, pai gow, beat the bank, panguingui, baccarat, twenty-one, poker, craps, roulette wheel, klondike table, punch board, faro layout, keno layout, numbers ticket, push card, jar ticket, pull tab, and any other game or device that is authorized in administrative regulation promulgated under this chapter. This term does not include:

(a) Bingo games or raffles authorized under KRS Chapter 238; or

(b) A system or device that affects a game solely by stopping its operation so that the outcome remains undetermined.";

On page 17, line 19, by deleting "***at licensed racetracks***";

On page 22, line 16, after "***license***" by inserting "***at a racetrack***";

On page 25, line 23, after "***devices***" by inserting "***, except as provided in Section 54 of this Act,***";

On page 27, line 1, after "***(d)***", by deleting "***The***" and inserting "***The operator is a racetrack and the***" in lieu thereof;

On page 28, line 10, after "***operator***", by inserting "***or a full gaming facility***";

On page 48, line 3, after "***equipment***" by inserting "***or other games of chance***";

On page 48, line 6, after "***devices***" by inserting "***or other games of chance***";

On page 48, line 17, after "***devices***" by inserting "***or other games of chance***";

On page 48, line 22, after "***game***" by inserting "***or other game of chance***";

On page 48, line 23, after "***operator***" by inserting "***or a full gaming facility***";

On page 48, line 26, after "***game***" by inserting "***or other game of chance***";

On page 49, line 6, after "***operator***" by inserting "***or full gaming facility operator***";

On page 79, line 9, after "***KRS Chapter 230A***" by inserting "***, except the licenses issued to full gaming facilities***";

On page 80, line 1, after "***games***" by inserting "***at racetracks***";

On page 80, line 14, after "***employee***" by inserting "***employed on racetrack premises***";

On page 93, line 19, after "***KRS Chapter 230A***" by inserting "***or the operation of other games of chance licensed and regulated under the provisions of KRS Chapter 230A***";

On page 94, line 3, after "***KRS Chapter 230A***" by inserting "***or the operation of other games of chance licensed and*** *regulated under the provisions of KRS Chapter 230A*";

On page 94, line 11, after "KRS 238.505" by inserting "*or the operation of other games of chance licensed and regulated under the provisions of KRS Chapter 230A*";

On page 95, line 25, after "*KRS Chapter 230A*" by inserting "*or the operation of other games of chance licensed and regulated under the provisions of KRS Chapter 230A*";

On page 110, between lines 11 and 12, by inserting the following:

"SECTION 54. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds and declares that, in authorizing the establishment of full gaming facilities, it is the purpose and intent of the General Assembly to provide economic development opportunities throughout the state. The General Assembly recognizes that the needs of the state are many and wishes to augment state moneys and care for the many needs of the state's people by allowing the establishment of up to three (3) full gaming facilities in counties with populations of seventy-five thousand (75,000) or more residents. A county shall be eligible for a full gaming facility only if there is located within the county a hotel that contains at least five hundred (500) rooms with sleeping accommodations. The full gaming facility shall not be located in a county, urban-county, or consolidated local government or any incorporated area within the county, urban-county, or consolidated local government where a racetrack is licensed to conduct electronic gaming pursuant to this chapter.

(2) Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, the Lottery Corporation may license up to three (3) full gaming facilities. Under the license issued, the holder of a full gaming facility may conduct electronic gaming and other games of chance at a hotel owned in whole or in part by the license holder. The license shall be issued in accordance with the provisions of this chapter and the administrative regulations promulgated thereunder to any hotel eligible under the provisions of subsection (1) of this section that meets the eligibility and other requirements for an electronic gaming operator's license under Sections 11 and 15 of this Act. The license shall not be transferred without the permission of the Lottery Corporation. A transfer is deemed to occur if there is a change in ten percent (10%) or more of the ownership interest in the hotel and gaming facility.

SECTION 55. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) A full gaming facility shall operate under the sole supervision of the Kentucky Lottery Corporation. The Kentucky Lottery Corporation shall promulgate administrative regulations to govern the operation of the full gaming facility. The Lottery Corporation shall have all the powers and duties in relation to a full gaming facility as the corporation has to electronic gaming device operators. To the extent possible, any electronic games shall comply with the provisions regulating electronic gaming devices in this chapter and administrative regulations promulgated thereunder. The conduct of the other games of chance shall be governed by administrative regulations promulgated by the Lottery Corporation pursuant to KRS Chapter 13A. At a minimum, the administrative regulations promulgated shall;

(a) Establish the hours and times that the other games of chance will be played;

(b) Provide a process by which gaming receipts from the other games of chance are remitted and properly accounted;

(c) Provide the Lottery Corporation access at all times to the premises of the full gaming facility for the purposes of making inspections, conducting investigations, and enforcing the provisions of this chapter and administrative regulations promulgated relating to other games of chance;

(d) Establish standards for the conduct of other games of chance;

(e) Issue and renew licenses and establish an application process and corresponding fees for the distributors, manufacturers, operators of full gaming facilities, and other personnel engaged in conducting other games of chance if the Lottery Corporation deems such licensing is in the best interest of the public and the operation and integrity of the full gaming facilities;

(f) Establish a process by which applications for licensing may be denied or by which disciplinary actions may be taken against a licensee. The process shall be the same as those used for the electronic device operator. However, the Lottery Corporation has the discretion to impose additional requirements or request additional information to assure that the other games of chance are operated fairly and in accordance with the provisions established in this chapter. The application process and the disciplinary proceedings shall be held in accordance with those procedures established in Sections 5 and 6 of this Act;

(g) Permit the Lottery Corporation to summarily seize and remove from such premises and impound any equipment, supplies, documents, or records relating to the operation of other games of chance;

(h) Demand access to and inspect, examine, photocopy, and audit all papers, books, and records of any applicant or licensee or his or her agent regarding the gross income produced by the conduct of other games of chance at a full gaming facility. To further the powers set out in this paragraph, the Lottery Corporation may require verification of income and all other matters related to the conduct of other games of chance at a full gaming facility; and

(i) Demand access to and inspect, examine, photocopy, and audit all papers, books, and records of any affiliate of a licensee conducting other games of chance who the Lottery Corporation knows or reasonably suspects is

involved in the financing, operation, or management of the gaming activities of the licensee. The inspection, examination, photocopying, and audit may take place on the affiliate's premises or elsewhere as practicable, and in the presence of the affiliate or its agent.

(2) No person under twenty-one (21) years of age shall play or place wagers on the other games of chance, personally or through his or her agent, or loiter or be employed in the area of the hotel or its adjacent property in which electronic gaming and games of chance are being played.

(3) Each full gaming facility shall be subject to all the rules, regulations, qualifications, and limitations set forth in this chapter and in administrative regulations promulgated thereunder, with the following exceptions:

- *(a) Electronic gaming devices and other games of chance shall be played only on the hotel's premises;*
- *(b) Provisions of this chapter pertaining to horse racing, licensure under KRS Chapter 230, or operations unique to the horse industry shall not apply to the veterans service organization;*
- *(c) Gaming income from the operation and conduct of electronic gaming devices and other games of chance shall be remitted to the Lottery Corporation and expended in accordance with the provisions of Section 56 of this Act; and*
- *(d) A full gaming facility license may be denied, revoked, or not renewed for the reasons established in subsection (3) of Section 12 of this Act, except those provisions relating to electronic gaming shall also apply to the conduct of games of chance.*

SECTION 56. A NEW SECTION OF KRS CHAPTER 230A IS CREATED TO READ AS FOLLOWS:

(1) The portion of the annual gaming income for each calendar year of each full gaming facility licensee specified in paragraph (a) of this subsection shall be paid to the Lottery Corporation as specified in paragraph (b) of this subsection, and shall be allocated and distributed by the Lottery Corporation as specified in paragraphs (c) to (g) of this sub-section.

- *(a) A percentage of the annual gaming income shall be paid to the Lottery Corporation, based on the following range:*
  - *1. Twenty-eight percent (28%) of the annual gaming income not exceeding fifty million dollars ($50,000,000);*
  - *2. Thirty-six and forty-four one-hundredths percent (36.44%) of the annual gaming income exceeding fifty million dollars ($50,000,000) but not exceeding one hundred million dollars ($100,000,000);*
  - *3. Thirty-nine and forty-four one-hundredths percent (39.44%) of the annual gaming income exceeding one hundred million dollars ($100,000,000) but not exceeding one hundred fifty million dollars ($150,000,000);*
  - *4. Forty and forty-four one-hundredths percent (40.44%) of the annual gaming income exceeding one hundred fifty million dollars ($150,000,000) but not exceeding two hundred million dollars ($200,000,000); and*
  - *5. Forty-one and forty-four one-hundredths percent (41.44%) of the annual gaming income exceeding two hundred million dollars ($200,000,000).*
- *(b) On or before the third business day of each week, each full gaming facility licensee shall pay to the Lottery Corporation a percentage of the gaming income collected by the full gaming facility licensee during the preceding week, such percentage to be determined as specified in paragraph (a) of this subsection by reference to the cumulative amount of gaming income collected by the full gaming facility licensee during the current calendar year, through the last day of that preceding week.*
- *(c) The funds described in paragraph (a) of this subsection shall be applied first to the administrative costs and expenses of the Lottery Corporation relating to electronic gaming device games and other games of chance, including but not limited to administrative expenses and payroll and other employment costs attributable to the regulation of electronic gaming device games and other games of chance by the Lottery Corporation. Twenty-four (24) months after the implementation of the operation of electronic gaming devices and other games of chance authorized under this chapter, the administrative costs and expenses of the Lottery Corporation shall not exceed four percent (4%) of the total gaming income for each fiscal year thereafter. Implementation shall be deemed to have commenced when one (1) full gaming facility licensee allows the play of electronic gaming device games or other games of chance on its premises.*
- *(d) After payment of the costs and expenses described in paragraph (c) of this subsection, an amount equal to twenty-five one-hundredths of one percent (0.25%) of the annual gaming income shall be dedicated for local economic development and shall be distributed by the Lottery Corporation as follows:*
  - *1. If the full gaming facility is located in an incorporated area, fifty percent (50%) shall be distributed to the governing body of the city in which the full gaming facility is located, and fifty percent (50%) to the governing body of the county in which the full gaming facility is located;*
  - *2. If the full gaming facility is located in an unincorporated area, fifty percent (50%) shall be distributed to*

the governing body of the largest city in the county in which the full gaming facility is located, and fifty percent (50%) to the governing body of the county in which the full gaming facility is located; and

3. Notwithstanding subparagraphs 1. and 2. of this paragraph, if the full gaming facility is located within a county that has adopted the urban-county form of government as provided in KRS Chapter 67A, one hundred percent (100%) shall be distributed to the governing body of the urban-county government, and if the full gaming facility is located within a county containing a consolidated local government as provided in KRS Chapter 67C, one hundred percent (100%) shall be distributed to the governing body of the consolidated local government.

(e) After payment of the costs and expenses described in paragraph (c) of this subsection, an amount equal to five one-hundredths of one percent (0.05%) of the annual gaming income shall be deposited by the Lottery Corporation in a trust and revolving fund, to be known as the problem gambling fund. This fund shall be administered by the Problem Gambling Fund Committee. The Problem Gambling Fund Committee shall be composed of not less than four (4) members, with one-half (1/2) of the members appointed by the Kentucky Council on Problem Gambling, or its successor, and one-half (1/2) of the members appointed by the Lottery Corporation. Funds deposited in the problem gambling fund shall be made available by the committee to fund the development and operation of problem gambling education, prevention, and treatment programs. The committee shall strive to allocate funds as they are generated so that, after an appropriate needs assessment, all available funds are allocated on a current basis.

(f) After payment of the costs and expenses described in paragraph (c) of this subsection, an amount equal to ten percent (10%) of the annual gaming income shall be deposited by the Lottery Corporation to the Racing Commission. The Racing Commission shall further deposit these funds to each race track licensed under KRS Chapter 230 in equal amounts.

(g) All funds described in paragraph (a) of this subsection that are not applied or distributed by the Lottery Corporation as provided in paragraphs (c) to (f) of this subsection shall be paid by the Lottery Corporation into the general fund of the Commonwealth of Kentucky. The funds described in this paragraph shall be appropriated from the general fund as follows:

1. All of the funds in fiscal year 2002-2003 shall be appropriated to the Department of Education for distribution through the fund to Support Education Excellence in Kentucky (SEEK), to increase the SEEK formula, to restore funding to the Kentucky Education Reform Act strands and continuing general fund grant programs administered by the Department of Education in support of program needs of local school districts, and for teacher compensation; and

2. In each fiscal year thereafter, the funds shall be appropriated as follows:

a. Seven percent (7%) for a prescription drug program for senior citizens; and

b. Seven percent (7%) for health and human services including but not limited to mental illness and substance abuse services; and

c. Six percent (6%) for environmental cleanup and enhancement programs including but not limited to solid waste and landfill closure and cleanup directed by the Natural Resources and Environmental Protection Cabinet, and to environmental programs directed by the Department of Fish and Wildlife Resources; and

d. Forty percent (40%) to support the Kentucky Education Reform Act and general education purposes; and

e. Twenty-five percent (25%) for capital construction including but not limited to debt service to support community development projects, public infrastructure, elementary and secondary education construction projects through the School Facilities Construction Commission, and postsecondary education construction projects; and

f. Fifteen percent (15%) for replenishment of the budget reserve trust fund until the budget reserve trust fund equals five percent (5%) of general fund annual revenues. Amounts not necessary to achieve the five percent (5%) level of the budget reserve trust fund shall be appropriated for basic state services supported by the general fund.

(2) The portion of the annual gaming income for each calendar year of each full gaming facility licensee specified in paragraph (a) of this subsection shall be allocated and distributed by the full gaming facility licensee solely for the purposes described in paragraphs (b) to (g) of this subsection.

(a) The portion of the gaming income to be so allocated and distributed by the full gaming facility licensee shall be a percentage of the annual gaming income, based upon the following range:

1. Ten percent (10%) of the annual gaming income not exceeding fifty million dollars ($50,000,000);

2. Eleven and seventy-eight one-hundredths percent (11.78%) of the annual gaming income exceeding fifty million dollars ($50,000,000) but not exceeding one hundred million dollars ($100,000,000);

3. Fourteen and twenty-eight one-hundredths percent (14.28%) of the annual gaming income exceeding *one hundred million dollars ($100,000,000) but not exceeding one hundred fifty million dollars ($150,000,000);*

4. Fourteen and seventy-eight one-hundredths percent (14.78%) of the annual gaming income exceeding one hundred fifty million dollars ($150,000,000) but not exceeding two hundred million dollars ($200,000,000); and

5. Fifteen and twenty-eight one-hundredths percent (15.28%) of the annual gaming income exceeding two hundred million dollars ($200,000,000).

(b) From the funds described in paragraph (a) of this subsection, each full gaming facility licensee shall retain an amount equal to fifty percent (50%) of these funds. On or before the third business day of each week, this retained amount shall be paid and applied as set forth in paragraph (e) of this subsection.

(c) From the funds described in paragraph (a) of this subsection, on or before the third business day of each week, each full gaming facility licensee shall deposit an amount equal to twenty percent (20%) of these funds to a subaccount of the purse fund of all electronic gaming device operators to be used to supplement standardbred races designated for horses that were sired by standardbred stallions domiciled in Kentucky, and shall further deposit an amount equal to five percent (5%) of these funds to a subaccount of the purse fund of all electronic gaming device operators to be used to supplement standardbred races designated for horse racing at county fair programs in Kentucky.

(d) From the funds described in paragraph (a) of this subsection, on or before the third business day of each week, each full gaming facility licensee shall allocate and distribute, as specified in this paragraph, an amount equal to fifty percent (50%) of those funds. The electronic gaming device operator shall pay or retain to each eligible association, including the electronic gaming device operator, which conducted a live thoroughbred race meeting at any time during the immediately preceding calendar year an amount equal to that portion of the amount described in this paragraph that corresponds to the ratio of the total association purses paid by the eligible association in the immediately preceding calendar year, not including any portion of these purses paid from funds received under this paragraph and paragraph (b) of this subsection, compared to the total association purses paid in the immediately preceding calendar year by all eligible associations conducting thoroughbred race meetings in the immediately preceding calendar year, not including any portion of these purses paid from funds received under this paragraph and paragraph (b) of this subsection. Notwithstanding the foregoing, eligible associations which are parties to an agreement entered into pursuant to subsection (7) of Section 11 of this Act may agree to allocate among themselves amounts received by them under this paragraph.

(e) The funds retained or received by an electronic gaming device operator under paragraphs (b) and (d) of this subsection shall be allocated by the electronic gaming device operator as follows:

1. A percentage of the funds, not less than ten percent (10%) but not to exceed forty percent (40%), as authorized by the Racing Commission after the advice and assistance of the Kentucky Thoroughbred Development Fund Advisory Committee established pursuant to KRS 230.400, shall be paid as Kentucky thoroughbred development fund purse supplements;

2. A percentage of the funds, not less than ten percent (10%) but not to exceed twenty percent (20%), as authorized by the Racing Commission after the advice and assistance of the Kentucky Thoroughbred Development Fund Advisory Committee, shall be paid as Kentucky thoroughbred claiming fund purse supplements; and

3. The remaining amount of these funds shall be allocated to the purse money paid at race meetings conducted by all electronic gaming device operators.

(f) From the funds described in paragraph (a) of this subsection, and after subtraction of the amount applied pursuant to paragraph (c) of this subsection, on or before the third business day of each week, each full gaming facility licensee shall deposit the balance of these funds to the purse fund of all electronic gaming device operators to be used exclusively to supplement purse money paid at race meetings conducted by electronic gaming device operators. Unless otherwise provided in an agreement entered into pursuant to subsection (7) of Section 11 of this Act, if the funds to be so applied to purses exceed an average of one hundred fifty thousand dollars ($150,000) per day of live racing, then the electronic gaming device operator shall cooperate with the Kentucky Harness Horsemen's Association in making application to the Racing Commission for additional live racing dates for the following year; or the electronic gaming device operator may assign a portion of these funds, not to exceed thirty percent (30%), to another licensed standardbred track which was licensed by the Racing Commission to conduct standardbred racing prior to January 1, 2001, and is conducting electronic gaming device gaming, to support the purse fund of that track; or by agreement with the Kentucky Harness Horsemen's Association, the electronic gaming device operator may increase the funds to be so applied above one hundred fifty thousand dollars ($150,000) per day.

(g) The funds allocated and distributed under paragraphs (c) and (f) of this subsection shall be applied only to standardbred racing purses, regardless of the breed of racing conducted at a facility licensed to conduct standardbred racing.

(3) The portion of the gaming income of each full gaming facility licensee not paid to the Lottery Corporation as provided in subsection (1) of this section and not allocated and distributed by the full gaming facility licensee as provided in subsection (2) of this section shall be retained by the full gaming facility licensee, which shall allocate and distribute the funds as specified in paragraphs (b) to (d) of this subsection.

(a) The amounts of annual gaming income for each calendar year of each full gaming facility licensee to be allocated and distributed pursuant to this subsection are calculated as follows:

1. Sixty-two percent (62%) of the annual gaming income not exceeding fifty million dollars ($50,000,000);

2. Fifty-one and seventy-eight one-hundredths percent (51.78%) of the annual gaming income exceeding fifty million dollars ($50,000,000) but not exceeding one hundred million dollars ($100,000,000);

3. Forty-six and twenty-eight one-hundredths percent (46.28%) of the annual gaming income exceeding one hundred million dollars ($100,000,000) but not exceeding one hundred fifty million dollars ($150,000,000);

4. Forty-four and seventy-eight one-hundredths percent (44.78%) of the annual gaming income exceeding one hundred fifty million dollars ($150,000,000) but not exceeding two hundred million dollars ($200,000,000); and

5. Forty-three and twenty-eight one-hundredths percent (43.28%) of the annual gaming income exceeding two hundred million dollars ($200,000,000).

(b) An amount equal to twenty-five hundredths of one percent (0.25%) of annual gaming income shall be redeposited by the full gaming facility licensee to the Racing Commission for capital improvements to its backside racing facilities. On or before February 1 of each year, the full gaming facility licensee shall provide a written statement to the Racing Commission, certified by an officer of the full gaming facility licensee, providing an accounting of the funds expended under this paragraph. The Racing Commission may promulgate administrative regulations concerning the expenditure of those funds, including any carryover to future periods, and may take into account any failure to comply with this subsection in any licensing determination made by the Racing Commission. As used in this paragraph, "capital improvement" means any addition, replacement, or remodeling of a structural unit of the backside of a racetrack, as defined in KRS 230.218, including but not limited to the construction of barns used for the racetrack, backstretch facilities for horsemen, paddock facilities, the installation of permanent new heating or air conditioning, and installations of a permanent nature forming a part of the backside of the track.

(c) An amount equal to one-tenth of one percent (0.1%) of annual gaming income shall be paid by the full gaming facility licensee to the horsemen's groups representing the horsemen of the electronic gaming device operator's racetrack, as follows:

1. In the case of electronic gaming device operators which conduct thoroughbred racing, fifty percent (50%) to the Kentucky Division of the Horsemen's Benevolent and Protective Association, or its successor, and fifty percent (50%) to the Kentucky Thoroughbred Owners and Breeders Association, or its successor; and

2. In the case of electronic gaming device operators which conduct standardbred racing, to the Kentucky Harness Horsemen's Association.

(d) All funds described in this subsection that are not allocated or distributed as provided in paragraph (b) or (c) of this subsection shall be applied first to the operating expenses incurred by the full gaming facility licensee, including but not limited to costs of payroll, equipment purchase or lease, supplies, advertising and promotions, training of employees, uniforms, utilities, insurance, depreciation, and other reasonable expenses of operating electronic gaming devices and other games of chance, and second to any other lawful costs, expenditures, and expenses of the racetrack in Kentucky.

(4) On or before the third business day of each week, each full gaming facility licensee shall provide a written statement to the Lottery Corporation and to the Racing Commission, certified by an officer of the full gaming facility licensee, providing an accounting of the funds paid, allocated, and distributed under subsections (1)(b), (2)(b), (2)(c), (2)(d), (2)(e), and (2)(f) of this section.

(5) This chapter hereby establishes a trust and revolving fund for the Racing Commission, designated as the Kentucky thoroughbred claiming fund, consisting of money allocated to the fund under the provisions of this chapter. Money to the credit of the Kentucky thoroughbred claiming fund shall be distributed by the State Treasurer for the purposes of this chapter upon authorization of the Racing Commission and upon approval of the secretary of the Finance and Administration Cabinet. Money to the credit of the Kentucky thoroughbred claiming fund at the end of each fiscal year shall not lapse, but shall be carried forward in this fund to the succeeding fiscal year. The Kentucky thoroughbred claiming fund shall be governed by the same administrative rules and regulations as apply to the Kentucky thoroughbred development fund, as may be supplemented by the Racing Commission."; and

Renumber subsequent sections accordingly.

Floor Amendment No. 14 to the Committee Substitute to **SB 2**, by Representative L. Clark:

SB 2, On page 1, line 6, by deleting "***prevention and***"; and

On page 2, line 15, after "[~~11.~~]" by deleting all remaining new text through "***15.***" on line 20; and

On page 2, line 22, by deleting "***16***" and inserting "***15***" in lieu thereof; and

On page 2, line 24, by deleting "***17***" and inserting "***16***" in lieu thereof; and

On page 2, line 26, by deleting "***18***" and inserting "***17***" in lieu thereof; and

On page 3, line 1, by deleting "***19***" and inserting "***18***" in lieu thereof; and

On page 3, line 5, by deleting all text on line 5 through line 8 and inserting the following in lieu thereof:

"***19. One (1) representative from Kentucky Youth Advocates;***"; and

On page 3, line 9, by deleting "***21***" and inserting "***20***" in lieu thereof; and

On page 3, line 11, by deleting "***22***" and inserting "***21***" in lieu thereof; and

On page 3 line 13, by deleting "***23***" and inserting "***22***" in lieu thereof and after "***represent***" by deleting "***one (1)***" and inserting "***a separate***" in lieu thereof; and

On page 3, line 18, by deleting "***24***" and inserting "***23***" in lieu thereof; and

On page 4, line 12, after "of" by inserting "***a majority of***" and deleting "***sixteen (16)***";and

On page 4, line 26, by placing an opening bracket before "prevention" and placing a closing bracket after the second "and" and striking all intervening text; and

On page 4, line 27, before "prevention", by inserting "***education***" and bracketing and striking through "prevention"; and

On page 5, line 10, through page 10, line 6, by deleting Sections 2 and 3 in their entirety and inserting the following in lieu thereof:

"Section 2. KRS 12.332 is amended to read as follows:

KY-ASAP shall:

(1) Develop a strategic plan to reduce the prevalence of smoking and drug and alcohol abuse among both the youth and adult populations in Kentucky;

(2) Monitor the data and issues related to youth alcohol and tobacco access, smoking cessation and prevention, and substance abuse ***education*** policies, their impact on state and local programs, and their flexibility to adapt to the needs of local communities and ***education programs***[~~service providers~~];

(3) Make policy recommendations to be followed to the extent permitted by budgetary restrictions and federal law, by executive branch agencies that work with smoking cessation and prevention and alcohol and substance abuse ***education*** issues to ensure the greatest efficiency in agencies and to ensure that a consistency in philosophy will be applied to all efforts undertaken by the administration in initiatives related to smoking cessation and prevention and alcohol and substance abuse ***education***;

(4) Identify existing resources in each community that advocate or implement programs for smoking cessation or prevention, or drug and alcohol abuse [~~prevention,~~] education[~~, or treatment~~];

(5) Encourage coordination among public and private, state and local, agencies, organizations, and service providers, and monitor related programs;

(6) Act as the referral source of information, utilizing existing information clearinghouse resources within the Department for Public Health and CHAMPIONS for a Drug Free Kentucky Office, relating to youth tobacco access, smoking cessation and prevention, and substance abuse ***education***[~~prevention, cessation, and treatment~~] programs. KY-ASAP shall identify gaps in information referral sources;

(7) Search for grant opportunities for existing programs within the Commonwealth;

(8) Make recommendations to state and local agencies and local tobacco addiction and substance abuse advisory and coordination boards;

(9) ***Obtain information about***[~~Observe~~] programs from other states;

(10) Coordinate services among local and state agencies, including, but not limited to, the Justice Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, ***the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses,*** the Department of Agriculture, ***the Department for Local Government,*** the Public Protection and Regulation Cabinet, the Administrative Office of the Courts, and the Education, Arts, and Humanities Cabinet;

(11) Assure the availability of training, technical assistance, and consultation to local [~~service~~] providers for ***education*** programs funded by the Commonwealth that provide services related to tobacco addiction, smoking cessation or prevention, or alcohol or substance abuse ***education***;

(12) Review existing research on programs related to smoking cessation and prevention and substance abuse

education[~~prevention and treatment~~];

(13) Comply with any federal mandate regarding smoking cessation and prevention and substance abuse ***education***, to the extent authorized by state statute;

(14) Establish a mechanism to coordinate the distribution of funds to support any local [~~prevention, treatment, and~~] education program based on the strategic plan developed in subsection (1) of this section that could encourage smoking cessation and prevention through efficient, effective, and research-based strategies;

(15) Oversee a school-based initiative that links schools with community-based agencies and health departments to implement School Programs to Prevent Tobacco Use, based upon the model recommended by the Centers for Disease Control and Prevention. To the extent permitted by resources, the initiative shall involve input by and services from each of the family resource and youth services centers, regional prevention centers, and existing school-based antidrug programs;

(16) Work with community-based organizations to encourage them to work together to establish comprehensive tobacco addiction and substance abuse [~~prevention~~] education programs and carry out the strategic plan developed in this section. These organizations shall be encouraged to partner with district and local health departments and community mental health centers to plan and implement interventions to reach youths before tobacco addiction and substance abuse become a problem in their lives;

(17) Coordinate media campaigns designed to demonstrate the negative impact of smoking and the increased risk of tobacco addiction, substance abuse, and the development of other disease in children, young people, and adults. To accomplish this objective, KY-ASAP shall work with local media to reach all segments of the community quickly and efficiently;

(18) Certify to the Governor and the General Assembly during the budget request process established under KRS Chapter 48 the extent to which each entity receiving state funds has cooperated with KY-ASAP, coordinated with community resources, and vigorously pursued the philosophy of KY-ASAP;

(19) ***Prior to October 1, 2002, the agency shall adopt a performance-based reporting system that includes benchmarks and methods of measuring performance and report on the system adopted to the Interim Joint Committee on Health and Welfare;***

(20) Promulgate any administrative regulations necessary to implement KRS 12.330 to 12.334; and

(21)[~~(20)~~] Report ***annually*** to the Legislative Research Commission and Governor by October 1 ***of each year***[~~, 2000,~~] regarding the proper organization of state government agencies that will provide the greatest coordination of services, and report semiannually to the Legislative Research Commission***, the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses,*** and ***the*** Governor on the proper organization structure, devising and implementing an accountability system to be designed to ensure efficiency and efficacy of services and grants, and on other matters as requested by the Legislative Research Commission and Governor.

Section 3. KRS 12.334 is amended to read as follows:

(1) KY-ASAP shall establish in each county a local tobacco addiction and alcohol and substance abuse ***educational*** advisory and coordination board to assist in planning, overseeing, and coordinating the implementation of local programs related to smoking cessation and prevention and alcohol and substance abuse ***education***[~~prevention, cessation, and treatment,~~] although a single board may be established for multiple counties to ensure a comprehensive range of ***coordinated educational programs***[~~services~~]. The board shall assist with the coordination of ***educational*** programs provided by public and private entities. If the existing [~~programs of~~] private ***educational programs***[~~service providers~~] are of high quality, KY-ASAP shall concentrate on providing missing elements and support for those providers. The Cabinet for Health Services shall support the communities' efforts.

(2) KY-ASAP shall consult with community leaders to solicit the names of residents from the community to serve on each ***educational*** advisory and coordination board. KY-ASAP shall request from each board the submission of reasonable reports on the effectiveness, efficiency, and efforts of each local program, including recommendations for increased or decreased funding, and KY-ASAP shall supply information as necessary to the ***educational*** advisory and coordination board to enable it to carry out its functions.

(3) KY-ASAP shall provide incentives to encourage multicounty ***educational*** advisory and coordination board requests and shall establish a single board to represent all counties making the request. ***In establishing a board, KY-ASAP shall use, to the fullest extent possible,***[~~Priority in establishing a board shall be given to~~] existing regional prevention centers or coalitions, community organizations, or local Kentucky Incentives for Prevention (KIP) project coalitions. Membership shall consist of residents from each of the counties.

(4) Each ***educational*** advisory and coordination board shall develop a long-term community strategy that is designed to reduce the incidence of youth and young adult smoking and tobacco addiction, promote resistance to smoking, reduce the incidence of substance abuse, and promote effective [~~treatment of~~] substance abuse ***educational programs***. All county resources, both private and public, for-profit and nonprofit, shall be considered in developing this strategy.

  (a) Employers, local leaders, schools, family resource and youth services centers, health care providers and institutions, ***regional mental health and mental retardation boards and regional planning councils,*** economic developers, and other relevant local and regional entities shall be consulted in the development of the strategy.

(b) An assessment of needs and available services shall be included in the strategy.

(5) To carry out the provisions of this section, the local boards shall consult in their respective areas with the regional planning councils established under KRS 210.506."; and

On page 13, line 5, after "statewide", by inserting "***prevention and***", and by removing the brackets and strikethroughs on "treatment"; and

On page 13, line 6, after "system", by inserting "***for promoting mental health and treating mental illness, alcohol and other drug disorders, and dual diagnoses,***"; and

On page 13, line 18, after "abuse", by inserting "***prevention and***"; and

On page 14, line 5, before "services" by inserting "***prevention and treatment***"; and

On page 14, line 7, after "***for***" by inserting "***promoting mental health,***"; and

On page 14, line 7, after "***awareness***" by inserting "***,***"; and

On page 15, line 6, after "***Services***" by deleting "***and***", inserting "***,***" in lieu thereof, and after "***commission***" by inserting "***, and all members of the commission***"; and

On page 15, line 14, after "***mental***" by deleting "***health***" and inserting "***illness***" in lieu thereof; and

On page 16, line 12, before "***services***" by inserting "***treatment***"; and

On page 17, line 1, after "community-based" by inserting "***prevention and treatment***"; and

On page 17, by deleting all new text on line 20 through line 24; and

On page 18, line 11, after "***KRS. 12.334***" by inserting the following:

"***; and***

(h) To carry out the provisions of this section related to substance abuse prevention and education strategies, the regional planning councils shall consult the local boards in their areas established by KRS 12.334"; and

On page 22, line 2, after "***KY-ASAP***", by inserting "***and all other members of KY-ASAP***".

Floor Amendment No. 15 to the Committee Substitute to **SB 2**, by Representative Burch:

SB 2, On page 1, by deleting all text on line 1, and inserting in lieu thereof the following:

"Section 1. KRS 12.330 is repealed, reenacted as a new section of KRS Chapter 194A, and amended to read as follows:";

On page 1, line 2, after "in" by inserting "***Sections 1 to 3 of this Act***" and bracketing and striking through "KRS 12.1330 to 12.334";

On page 1, line 5 after "the" by inserting "***Cabinet for Health Services***" and bracketing and striking through "Office of the Governor";

On page 1, line 6, by deleting "***prevention and***"; and

On page 1, line 12, after "of" by inserting "***Sections 1 to 3 of this Act***" and bracketing and striking through "KRS 12.330 to 12.334";

On page 2, line 15, after "[~~11.~~]" by deleting all remaining new text through "***15.***" on line 20;

On page 2, line 22, by deleting "***16***" and inserting "***15***" in lieu thereof;

On page 2, line 24, by deleting "***17***" and inserting "***16***" in lieu thereof;

On page 2, line 26, by deleting "***18***" and inserting "***17***" in lieu thereof;

On page 3, line 1, by deleting "***19***" and inserting "***18***" in lieu thereof;

On page 3, line 5, by deleting all text on line 5 through line 8 and inserting the following in lieu thereof:

"***19. One (1) representative from Kentucky Youth Advocates;***";

On page 3, line 9, by deleting "***21***" and inserting "***20***" in lieu thereof;

On page 3, line 11, by deleting "***22***" and inserting "***21***" in lieu thereof;

On page 3 line 13, by deleting "***23***" and inserting "***22***" in lieu thereof and after "***represent***" by deleting "***one (1)***" and inserting "***a separate***" in lieu thereof;

On page 3, line 18, by deleting "***24***" and inserting "***23***" in lieu thereof;

On page 4, line 12, after "of" by inserting "***a majority of***" and deleting "***sixteen (16)***";

On page 4, line 26, by placing an opening bracket before "prevention" and placing a closing bracket after the second "and" and striking all intervening text;

On page 4, line 27, before "prevention" by inserting "***education***" and bracketing and striking through "prevention";

On page 5, line 10, through page 10, line 6, by deleting Sections 2 and 3 in their entirety and inserting the following in lieu thereof:

"Section 2. KRS 12.332 is repealed, reenacted as a new section of KRS Chapter 194A, and amended to read as follows:

KY-ASAP shall:

(1) Develop a strategic plan to reduce the prevalence of smoking and drug and alcohol abuse among both the youth and adult populations in Kentucky;

(2) Monitor the data and issues related to youth alcohol and tobacco access, smoking cessation and prevention, and substance abuse ***education*** policies, their impact on state and local programs, and their flexibility to adapt to the needs of local communities and ***education programs***[~~service providers~~];

(3) Make policy recommendations to be followed to the extent permitted by budgetary restrictions and federal law, by executive branch agencies that work with smoking cessation and prevention and alcohol and substance abuse ***education*** issues to ensure the greatest efficiency in agencies and to ensure that a consistency in philosophy will be applied to all efforts undertaken by the administration in initiatives related to smoking cessation and prevention and alcohol and substance abuse ***education***;

(4) Identify existing resources in each community that advocate or implement programs for smoking cessation or prevention, or drug and alcohol abuse [~~prevention,~~] education[~~, or treatment~~];

(5) Encourage coordination among public and private, state and local, agencies, organizations, and service providers, and monitor related programs;

(6) Act as the referral source of information, utilizing existing information clearinghouse resources within the Department for Public Health and CHAMPIONS for a Drug Free Kentucky Office, relating to youth tobacco access, smoking cessation and prevention, and substance abuse ***education***[~~prevention, cessation, and treatment~~] programs. KY-ASAP shall identify gaps in information referral sources;

(7) Search for grant opportunities for existing programs within the Commonwealth;

(8) Make recommendations to state and local agencies and local tobacco addiction and substance abuse advisory and coordination boards;

(9) ***Obtain information about***[~~Observe~~] programs from other states;

(10) Coordinate services among local and state agencies, including, but not limited to, the Justice Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, ***the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses,*** the Department of Agriculture, ***the Department for Local Government,*** the Public Protection and Regulation Cabinet, the Administrative Office of the Courts, and the Education, Arts, and Humanities Cabinet;

(11) Assure the availability of training, technical assistance, and consultation to local [~~service~~] providers for ***education*** programs funded by the Commonwealth that provide services related to tobacco addiction, smoking cessation or prevention, or alcohol or substance abuse ***education***;

(12) Review existing research on programs related to smoking cessation and prevention and substance abuse ***education***[~~prevention and treatment~~];

(13) Comply with any federal mandate regarding smoking cessation and prevention and substance abuse ***education***, to the extent authorized by state statute;

(14) Establish a mechanism to coordinate the distribution of funds to support any local [~~prevention, treatment, and~~] education program based on the strategic plan developed in subsection (1) of this section that could encourage smoking cessation and prevention through efficient, effective, and research-based strategies;

(15) Oversee a school-based initiative that links schools with community-based agencies and health departments to implement School Programs to Prevent Tobacco Use, based upon the model recommended by the Centers for Disease Control and Prevention. To the extent permitted by resources, the initiative shall involve input by and services from each of the family resource and youth services centers, regional prevention centers, and existing school-based antidrug programs;

(16) Work with community-based organizations to encourage them to work together to establish comprehensive tobacco addiction and substance abuse [~~prevention~~] education programs and carry out the strategic plan developed in this section. These organizations shall be encouraged to partner with district and local health departments and community mental health centers to plan and implement interventions to reach youths before tobacco addiction and substance abuse become a problem in their lives;

(17) Coordinate media campaigns designed to demonstrate the negative impact of smoking and the increased risk of tobacco addiction, substance abuse, and the development of other disease in children, young people, and adults. To accomplish this objective, KY-ASAP shall work with local media to reach all segments of the community quickly and efficiently;

(18) Certify to the Governor and the General Assembly during the budget request process established under KRS Chapter 48 the extent to which each entity receiving state funds has cooperated with KY-ASAP, coordinated with community resources, and vigorously pursued the philosophy of KY-ASAP;

(19) ***Prior to October 1, 2002, the agency shall adopt a performance-based reporting system that includes benchmarks and methods of measuring performance and report on the system adopted to the Interim Joint Committee on Health and Welfare;***

(20) Promulgate any administrative regulations necessary to implement ***Sections 1 to 3 of this Act***[~~KRS 12.330 to 12.334~~]; and

(21)[~~(20)~~] Report ***annually*** to the Legislative Research Commission and Governor by October 1 ***of each year***[~~, 2000,~~] regarding the proper organization of state government agencies that will provide the greatest coordination of services, and report semiannually to the Legislative Research Commission***, the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses,*** and ***the*** Governor on the proper organization structure, devising and implementing an accountability system to be designed to ensure efficiency and efficacy of services and grants, and on other matters as requested by the Legislative Research Commission and Governor.

Section 3. KRS 12.334 is repealed, reenacted as a new section of KRS Chapter 194A, and amended to read as follows:

(1) KY-ASAP shall establish in each county a local tobacco addiction and alcohol and substance abuse ***educational*** advisory and coordination board to assist in planning, overseeing, and coordinating the implementation of local programs related to smoking cessation and prevention and alcohol and substance abuse ***education***[~~prevention, cessation, and treatment~~], although a single board may be established for multiple counties to ensure a comprehensive range of ***coordinated educational programs***[~~services~~]. The board shall assist with the coordination of ***educational*** programs provided by public and private entities. If the existing[~~ programs of~~] private ***educational programs***[~~service providers~~] are of high quality, KY-ASAP shall concentrate on providing missing elements and support for those providers. The Cabinet for Health Services shall support the communities' efforts.

(2) KY-ASAP shall consult with community leaders to solicit the names of residents from the community to serve on each ***educational*** advisory and coordination board. KY-ASAP shall request from each board the submission of reasonable reports on the effectiveness, efficiency, and efforts of each local program, including recommendations for increased or decreased funding, and KY-ASAP shall supply information as necessary to the ***educational*** advisory and coordination board to enable it to carry out its functions.

(3) KY-ASAP shall provide incentives to encourage multicounty ***educational*** advisory and coordination board requests and shall establish a single board to represent all counties making the request. ***In establishing a board, KY-ASAP shall use, to the fullest extent possible,***[~~Priority in establishing a board shall be given to~~] existing regional prevention centers or coalitions, community organizations, or local Kentucky Incentives for Prevention (KIP) project coalitions. Membership shall consist of residents from each of the counties.

(4) Each ***educational*** advisory and coordination board shall develop a long-term community strategy that is designed to reduce the incidence of youth and young adult smoking and tobacco addiction, promote resistance to smoking, reduce the incidence of substance abuse, and promote effective[~~ treatment of~~] substance abuse ***educational programs***. All county resources, both private and public, for-profit and nonprofit, shall be considered in developing this strategy.

  (a) Employers, local leaders, schools, family resource and youth services centers, health care providers and institutions, ***regional mental health and mental retardation boards and regional planning councils,*** economic developers, and other relevant local and regional entities shall be consulted in the development of the strategy.

  (b) An assessment of needs and available services shall be included in the strategy.

(5) To carry out the provisions of this section the local boards shall consult in their respective areas with the regional planning councils established under KRS 210.506.

Section 4. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on Postsecondary Education;

(2) Department of Military Affairs;

(3) Department for Local Government;

(4) Kentucky Commission on Human Rights;

(5) Kentucky Commission on Women;

(6) Kentucky Commission on Military Affairs;

(7) Kentucky Coal Council;

(8) Governor's Office of Child Abuse and Domestic Violence Services;

(9) Governor's Office for Technology;

(10) Office of Coal Marketing and Export;

(11) Agricultural Development Board;

(12) Commission on Small Business Advocacy;

(13) Office of Early Childhood Development; ***and***

(14)[~~ Kentucky Agency for Substance Abuse Policy; and~~

~~(15)~~] Education Professional Standards Board.

Section 5. KRS 194A.030 is amended to read as follows:

The cabinet consists of the following major organizational units, which are hereby created:

(1) Office of the Secretary;

(2) Office of Program Support. The Office of Program Support shall provide professional support in personnel activities; planning; budgeting; contract management; policy analysis, including but not limited to the appraisal of needs; evaluation of programs; review of citizen complaints about services of the cabinet when complaints cannot be resolved through normal administrative remedies; and fiscal, facility, and information management functions of the cabinet. The Office of Program Support shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050;

(3) Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for Medicaid services, who shall be appointed by the secretary with the approval of the Governor under with KRS 12.050. The commissioner for Medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for Medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

(4) Department for Public Health. The Department for Public Health shall develop and operate all programs of the cabinet that provide health services and all programs for assessing the health status of the population for the promotion of health and the prevention of disease, injury, disability, and premature death. The Department for Public Health shall be headed by a commissioner for public health who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for public health shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for public health shall exercise authority over the Department for Public Health under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

(5) Department for Mental Health and Mental Retardation Services. The Department for Mental Health and Mental Retardation Services shall develop and administer programs for the prevention of mental illness, mental retardation, and chemical dependency and shall develop and administer an array of services and support for the treatment, habilitation, and rehabilitation of persons who have a mental illness or emotional disability, who have mental retardation, or who are chemically dependent. The Department for Mental Health and Mental Retardation Services shall be headed by a commissioner for mental health and mental retardation who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for mental health and mental retardation shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for mental health and mental retardation shall exercise authority over the department under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

(6) Office of the Inspector General. The Office of the Inspector General shall be responsible for:

(a) The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;

(b) Licensing and regulatory functions as the secretary may delegate;

(c) Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.165 to 311.235 and KRS 311.241, 311.243, 311.245, and 311.247; and

(d) The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority.

The Office of the Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary;

(7) Commission for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed by the commission. The commission shall advocate the rights of children with disabilities and, to the extent that funds are available, shall provide the services and facilities for children with disabilities as are deemed appropriate by the commission. The commission shall be composed of seven (7) members appointed by the Governor to serve a term of office of four (4) years. The commission may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the Commission for Children with Special Health Care Needs shall be performed through the office of the

executive director of the commission. The executive director shall be appointed by the Governor under KRS 12.040, and the commission may at any time recommend the removal of the executive director upon filing with the Governor a full written statement of its reasons for removal. The executive director shall report directly to the Commission for Children with Special Health Care Needs and serve as the commission's secretary;

(8) Office of Certificate of Need. The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeal functions, as set out in KRS Chapter 216B, shall be performed by this office;

(9) Office of the General Counsel. The Office of the General Counsel shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of the General Counsel shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney and shall administer all personal service contracts of the cabinet for legal services. The Office of the General Counsel shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105***;***[~~.~~]

(10) Office of Aging Services. The Office of Aging Services shall serve as the state unit on aging as required by the Older Americans Act of 1965, as amended, 42 U.S.C. secs. 3001 et seq., including having responsibility for the development of the state plan on aging, advocacy, planning, coordination, information sharing, brokering, reporting and evaluation of contract and service-provider agreement implementation. The Office of Aging Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The Office of Aging Services shall also administer grants, programs, and initiatives designed to assist older Kentuckians, administer the long-term care ombudsman program for Kentucky, and provide and coordinate services to persons with Alzheimer's disease and related disorders and their caregivers***; and***

(11) Kentucky Agency for Substance Abuse Policy. The duties, responsibilities, and authority set out in Sections 1 to 3 of this Act shall be performed by this office."; and by renumbering the subsequent sections accordingly;

On page 13, line 5, after "statewide" by inserting "***prevention and***", and by removing the brackets and strikethroughs from "treatment";

On page 13, line 6, after "system" by inserting "***for promoting mental health and treating mental illness, alcohol and other drug disorders, and dual diagnoses,***";

On page 13, line 18, after "abuse" by inserting "***prevention and***";

On page 14, line 5, before "services" by inserting "***prevention and treatment,***";

On page 14, line 7, after "***for***" by inserting "***promoting mental health,***" and after "***awareness***" by inserting "***,***";

On page 15, line 6, after "***Services***" by deleting "***and***", inserting "***,***" in lieu thereof, and after "***commission***" by inserting "***, and all members of the commission***";

On page 15, line 14, after "***mental***" by deleting "***health***" and inserting "***illness***" in lieu thereof;

On page 16, line 12, before "***services***" by inserting "***treatment***";

On page 17, line 1, after "community-based" by inserting "***prevention and treatment***";

On page 17, by deleting all new text on line 20 through line 24;

On page 18, line 11, after "***under***" by deleting "***KRS 12.334***" and inserting in lieu thereof "***Section 3 of this Act; and***

(h) To carry out the provisions of this section relating to substance abuse prevention and education strategies, the regional planning councils shall consult with the local boards in their areas established by Section 3 of this Act";

On page 20, line 5, after "in" by inserting "***Section 2 of this Act***", and by bracketing and striking through "KRS 12.332" and after "***under***" by deleting "***Section 5 of this Act***" and inserting in lieu thereof "***KRS 210.504***";

On page 22 line 1, after "under" by bracketing and striking through "KRS 12.330" and inserting in lieu thereof "***Section 1 of this Act***"; and

On page 22, line 2, after "***KY-ASAP***" by inserting "***and all other members of KY-ASAP***".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsor of Bills and Resolutions:

HB 140, Representative Denham

HB 281, Representative Denham

HCR 10, Representative Denham.

Announcements

The following meetings were announced:

Judiciary: Wednesday, March 27, 2002, noon

Education: Wednesday, March 27, 2002, 8:27 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m. on Wednesday, March 27, 2002.

The motion that the House adjourn until 2:00 p.m., Wednesday, March 27, 2002, was adopted by voice vote.

WEDNESDAY, MARCH 27, 2002

FIFTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend John Owen, First Baptist Church, Winchester, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Branham.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Tuesday, March 26, 2002, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Pullin moved to suspend the rules to act on a legislative citation. Agreed.

Representative Pullin moved the adoption of the following **Legislative Citation No. 115**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Greenup County High School Varsity Cheerleaders upon winning their school's tenth Universal Cheerleaders Association National High School Cheerleading Championship. This outstanding squad, under the skilled tutelage of Coaches Candy Berry, Janet Dillow and Rhonda Poplin, is, without a doubt, recognized as belonging to one of the nation's elite cheerleading programs. Competing against fifty-one regional winners from across the nation, these outstanding cheerleaders also serve as model students in the classroom and serve as public relations ambassadors of their school, the community and this great Commonwealth. The members of this honorable body are delighted to join Representative Tanya Pullin in applauding the Greenup County High School Varsity Cheerleaders for their unparalleled fete of athletic accomplishment and in commending them for the honor and esteem that they have brought to the citizens of Kentucky. Done in Frankfort, Kentucky, this twenty-seventh day of March, in the year two thousand and two.

Legislative Citation No. 115 was adopted without objection.

Representative Pasley moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Pasley moved the adoption of the following **Legislative Citation No. 114**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Sarah Conn upon visiting the Capitol in Frankfort, Kentucky, to witness the proceedings of this honorable body during the Regular Session of the 2002 Kentucky General Assembly. This distinguished young lady is further offered sincerest congratulations for her remarkable victory at the prestigious Westminster Kennel Club Dog Show in New York City where she and her beloved Boston Terrier, Maggie, were named the well-deserving recipients of the coveted Best of Breed award, an amazing feat for a young lady of her age and experience. Ms. Conn, who has been showing dogs for six years and was the youngest exhibitor at the Westminster show, has been the recipient of several high accolades recognizing her tremendous skill and talent, including winning the Open Junior Handler competition at the Boston Terrier Club of New York and winning the Open Junior competition at Hudson Valley with an English Setter. This distinguished young lady is applauded for demonstrating such phenomenal dedication and hard work in pursuit of this worthwhile goal and is commended for the rare talent that she has displayed in this endeavor. Therefore, this honorable body is delighted to join with Representative Don Pasley in welcoming Sarah Conn to the Chambers of the House of Representatives and in wishing her best wishes for future monuments of success. Done in Frankfort, Kentucky, this twenty-seventh day of March, in the year two thousand and two.

Legislative Citation No. 114 was adopted without objection.

Representative Westrom moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Westrom moved the adoption of the following **Legislative Citation No. 117**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the members and coaching staff of the SCAPA Bluegrass Speech Team upon winning their seventh consecutive Kentucky High School Speech

League Bluegrass Regional Tournament and their fifth Middle School State Tournament in the past five years. Inasmuch as the members of this celebrated team have exhibited tremendous dedication and a laudable commitment to academic excellence by the effort put forth in this most worthwhile endeavor, the members of this august body are honored to join Representative Susan Westrom in applauding the SCAPA Bluegrass Speech Team for this notable achievement and in extending best wishes for continued landmarks of academic success. Done in Frankfort, Kentucky, this twenty-seventh day of March, in the year two thousand and two.

Legislative Citation No. 117 was adopted without objection.

Representative Stein moved that the rules be suspended to grant floor privileges and to act on two Resolutions. Agreed.

Representative Marzian moved the adoption of the following :

HR 264, A RESOLUTION adjourning the House of Representatives in honor of the Louisville Bats.

WHEREAS, a Triple A affiliate of the Cincinnati Reds, the Louisville Bats baseball team has played in the International League since 1998; and

WHEREAS, the Louisville Bats baseball team drew 649,243 adoring fans to Slugger Field in 2001 which means an average of 9,275 fans supported the team every game; and

WHEREAS, the Louisville Bats baseball team enjoyed enough fan loyalty to have five sell outs of Slugger Field in 2001; and

WHEREAS, also in 2001, the Louisville Bats baseball team established a franchise record of 84 wins and a .583 winning percentage; and

WHEREAS, the 2001 Louisville Bats captured for the first time in franchise history the Governor's Cup Championship; and

WHEREAS, the Governor's Cup Championship was the fourth championship in franchise history because the team had won three others while a member of the American Association; and

WHEREAS, the Louisville Bats finished with a 16.5 game advantage over Columbus which was a record in the International League West; and

WHEREAS, the 16.5 game lead established a franchise record for the largest lead in a season, previously held by the 1983 Redbirds; and

WHEREAS, the 2001 Louisville Bats team completed the season with an 84-60 record which is a franchise best for games over .500; and

WHEREAS, the 2001 Louisville Bats team completed their best road record in franchise history, ending the season with a .528 winning percentage;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, hereby hail and commend the Louisville Bats baseball team upon the unprecedented success of the team in the 2001 season.

Section 2. The House of Representatives hereby proclaims each officer, coach, and member of the Louisville Bats baseball team to be outstanding citizens and exemplary representatives of the Commonwealth.

Section 3. When the House of Representatives does adjourn this day, Wednesday, March 27, 2002, it does so in honor of the Louisville Bats baseball team.

There being no objection **HR 264** was adopted.

Introduction of Bills and Resolutions

HR 265, by Representative Stein: A RESOLUTION adjourning the House of Representatives in honor of the Lexington Legends baseball team.

Representative Stein moved the adoption of the following **HR 265**:

HR 265, A RESOLUTION adjourning the House of Representatives in honor of the Lexington Legends baseball team.

WHEREAS, a Class A affiliate of the Houston Astros and playing in the South Atlantic League, the Lexington Legends baseball team completed its inaugural season in 2001; and

WHEREAS, the Lexington Legends baseball team drew over 450,000 adoring fans to Applebee's Park during its inaugural season which averaged 6,500 people per game; and

WHEREAS, the Lexington Legends compiled an impressive record of 92 wins with only 48 losses; and

WHEREAS, the Lexington Legends had a .657 winning percentage which gave the 2001 Legends the best record in all of minor league baseball; and

WHEREAS, the Lexington Legends can proudly boast of the following records the team either set or broke in the team's inaugural season: most extra base hits (16) in a game with 13 doubles and 3 home runs against the Delmarva Shorebirds which broke the existing record of 13; most extra base hits (493) in a season with 297 doubles, 43 triples, and 153 home runs which broke the existing record of 443 set in 1998; most doubles (13) in a game which broke the existing record of 10 set in 1997; most total bases (2,163) set in a season which broke the existing record of 2,068 set in 2000; most doubles (297) in a season which broke the record of 293 set in 1997; and most strikeouts (1,235) in a season which broke the record of 1,229 set in 1996; and

WHEREAS, baseball would not have returned to Lexington without the vision, dedication, and sacrifice of the Legends President and CEO Alan Stein, who fought for ten years to build his dream -- an impressive accomplishment considering he built the team and Applebee's Park without any local, state, or federal tax dollars;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, hereby hail and commend the Lexington Legends baseball team upon the unprecedented success of the team in its inaugural season.

Section 2. The House of Representatives hereby proclaims each officer, coach, and member of the Lexington Legends baseball team to be outstanding citizens and exemplary representatives of the Commonwealth.

Section 3. When the House of Representatives does adjourn this day, Wednesday, March 27, 2002, it does so in honor of the Lexington Legends baseball team.

There being no objection **HR 265** was adopted.

Senate Message

Announcing passage of **SB 120, SB 124, HB 52, HB 79, HB 438, HB 483, HB 484, HB 529, HB 556, HB 652, HB 657, HB 671, HB 679, HB 737, HB 829,** and **HJR 122**, .

Message received in regard to **HB 87**: The Senate has passed **HB 87**, by way of Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 174**: The Senate has passed **HB 174**, by way of Committee Substitute, with Senate Committee Amendment No. 1, and Senate Committee Amendment No. 2 Title and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 232**: The Senate has passed **HB 232**, by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 333**: The Senate has passed **HB 333**, with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 390**: The Senate has passed **HB 390**, by way of a Second Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 469**: The Senate has passed **HB 469**, with Senate Floor Amendment No. 1, Senate Floor Amendment No. 2, and Senate Floor Amendment No. 4, Senate Floor Amendment No. 5 and Senate Floor Amendment No. 7 and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 507**: The Senate has passed **HB 507**, by way of Senate Committee Substitute with Senate Committee Amendment No. 1, Senate Committee Amendment No. 2 and Senate Committee Amendment No. 3 and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 658**: The Senate has passed **HB 658**, by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 659**: The Senate has passed **HB 659**, with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. (Time: 2:10 p.m.)

Introduction of Bills and Resolutions (Continued)

HR 266, by Representative Richards: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Chase Coleman Snodgrass.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bill and Resolution:

Local Government: **SB 221**

Floor Resolutions: **HR 264**

Report of Committees

The Committee on Education reported **SB 165, SB 167,** and **SB 210** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 165, AN ACT relating to the Kentucky Community and Technical College System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.005 is amended to read as follows:

(1) There is established the Governor's Postsecondary Education Nominating Committee which shall consist of seven (7) members representing each of the Supreme Court districts who shall be appointed by the Governor with the consent of the House of Representatives and the Senate. If the General Assembly is not in session at the time of appointment, the consent of the General Assembly shall be obtained during the time the General Assembly next convenes.

(2) (a) In order to be eligible to serve on the Governor's Postsecondary Education Nominating Committee, a member at the time of appointment shall have no conflict of interest pursuant to KRS 45A.340. In addition, no member shall have a relative employed by a public postsecondary institution, the Council on Postsecondary Education, the Kentucky Higher Education Assistance Authority, the Kentucky Higher Education Student Loan Corporation, or the Kentucky Authority for Educational Television during his ***or her*** tenure on the committee. No more than two (2) persons holding an undergraduate degree from the same institution of higher education shall be members of the committee.

(b) The Governor shall make the appointments so as to reflect, inasmuch as possible, equal representation of the two (2) sexes and no less than proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration and to assure that appointments reflect the minority racial composition of the Commonwealth. In filling vacancies to the committee, the Governor shall act so as to provide, inasmuch as possible, equal representation of the two (2) sexes by appointing a member of the sex that is the lesser represented at the time of the appointment. If the remaining membership already has an equal number of males and females, the Governor may appoint a member of either sex.

(c) In selecting the members of the committee, the Governor shall solicit recommendations from each of the following:

1. Advisory of Presidents;
2. Council on Postsecondary Education Student Advisory Committee;
3. Associations representing faculty from universities, technical institutions, and community colleges;
4. Associations representing university, technical institutions, and community college alumni;
5. Postsecondary education advocacy groups;
6. The Kentucky Board of Education;
7. Associations representing business and civic interests; and
8. Associations representing independent, nonprofit colleges and universities.

(3) (a) Members of the committee representing Supreme Court districts shall serve six (6) year terms and until a successor is appointed, except the initial appointments shall be as follows:

1. Two (2) members shall serve a two (2) year term;
2. Two (2) members shall serve a four (4) year term; and
3. Three (3) members shall serve a six (6) year term.

(b) The terms of the original appointees shall expire on April 14 in the year designated for the term, and the terms of each member appointed thereafter shall begin on April 15. Appointments shall be submitted to the Senate and to the House of Representatives for confirmation by February 1 in each year that a regular session of the General Assembly convenes. Each appointment shall be consented to by both chambers in order for the person to be confirmed. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.

(4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the Governor's office.

(5) (a) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to a university ***or Kentucky Community and Technical College System*** governing board made pursuant to KRS 164.131, 164.321, and 164.821 and to the Council on Postsecondary Education pursuant to KRS 164.011~~[, except for the four (4) members of the Kentucky Community and Technical College System who shall be nominated by the board of trustees of the University of Kentucky under KRS 164.321]~~. The committee shall not make recommendations for alumni, faculty, and staff appointments made pursuant to KRS 164.131 and 164.821 and the student appointments made pursuant to KRS 164.131, 164.321, and 164.821. If more than one (1) equivalent gubernatorial appointment is being made to a governing board or the Council on Postsecondary Education at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The committee shall provide to the Governor, inasmuch as possible, an equal number of male and female nominees. If the Governor needs nominees of a particular sex in order to make an appointment, the committee shall only provide nominees of that sex. The Governor shall select the appointees from among the nominees.

(b) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to the Kentucky Authority for Educational Television made pursuant to KRS 168.040, the Kentucky Higher Education Assistance Authority pursuant to KRS 164.746, and the Kentucky Higher Education Student Loan Corporation pursuant to KRS 164A.050. If more than one (1) appointment is being made at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.

(c) Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen vacancy. The Governor shall make the appointment within sixty (60) days following receipt of the nominations. If the Governor does not make the appointment within sixty (60) days, the committee shall select one (1) of the nominees to serve.

(6) In making its nominations, the committee shall consider the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as necessary.

(7) The Governor's office staff shall provide support services for the committee.

Section 2. KRS 164.321 is amended to read as follows:

(1) Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University, Northern Kentucky University, and the Kentucky Community and Technical College System shall each be governed by a board of regents appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.

(a) Each board of the regional universities shall consist of eight (8) members appointed by the Governor, one (1) member of the teaching faculty, one (1) member of the university nonteaching personnel, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairperson annually.

(b) The board of the Kentucky Community and Technical College System shall consist of eight (8) members appointed by the Governor, two (2) members of the teaching faculty, two (2) members of the nonteaching personnel, and two (2) members of the student body.

1.~~[Four (4) members shall be appointed by the Governor from three (3) nominations for each of four (4) appointments, recommended by the board of trustees of the University of Kentucky. The Governor may request additional nominations at his discretion.~~

~~2. Four (4) members shall be appointed by the Governor from nominations by the Governor's Postsecondary Nominating Committee, under KRS 164.005.~~

~~3.]~~ No more than three (3) appointed members of the board shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment.

2.~~[4.]~~ A change in residency of a gubernatorial appointee after the date of appointment shall not affect the appointee's ability to serve. In making initial appointments, the Governor shall act so as to provide equal representation of the two (2) sexes. In filling vacancies, the Governor shall act so as to provide, inasmuch as possible, equal representation of the two (2) sexes by appointing a member of the sex that is the lesser represented at the time of the appointment. If the remaining membership already has an equal number of males and females, the Governor may appoint a member of either sex.

(2) The terms of appointed members shall be for six (6) years and until their successors are appointed and qualified, except the initial appointments to the board of regents for the Kentucky Community and Technical College System shall be as

follows:

(a) One (1) member shall serve a one (1) year term;

(b) One (1) member shall serve a two (2) year term;

(c) Two (2) members shall serve three (3) year terms;

(d) One (1) member shall serve a four (4) year term;

(e) One (1) member shall serve a five (5) year term; and

(f) Two (2) members shall serve six (6) year terms.

New appointees of a board of regents shall not serve for more than two (2) consecutive terms. Board members serving as of May 30, 1997, may be reappointed at the end of their existing terms and may serve two (2) additional full consecutive terms.

(3) The gubernatorial appointments may include one (1) graduate of the respective institution who resides outside the Commonwealth. Not more than two (2) appointed members of any board shall be residents of one (1) county. The appointments shall reflect the proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration. Membership on the board shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. Membership on the board shall not be incompatible with any state office. A change in residency after the date of appointment shall not affect a member's ability to serve nor shall it prevent a member's eligibility for reappointment.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each member of the board shall serve for the term for which ***the member***[~~he~~] is appointed and until ***a***[~~his~~] successor is appointed and qualified.

(6) (a) The faculty member shall be a teaching or research member of the faculty of his ***or her*** respective university or college of the rank of assistant professor or above. ***The faculty member***[~~He~~] shall be elected by secret ballot by all faculty members of his ***or her*** university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until ***a***[~~his~~] successor is elected and qualified. The faculty member shall be eligible for reelection, but he ***or she*** shall not be eligible to continue to serve as a member of the board if he ***or she*** ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(b) The faculty members of the Kentucky Community and Technical College System shall be represented by one (1) faculty member elected from the community colleges and one (1) faculty member elected from the technical institutions to serve three (3) year terms and until their successors are named. The faculty ***representative***[~~representatives~~] of each branch shall be elected by means of a process established by the board. The faculty members may be reelected but shall not serve more than two (2) consecutive terms. A faculty member shall be ineligible to continue to serve as a member of the board if he ***or she*** ceases to be a member of the faculty at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election. These two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member.

(7) (a) The nonteaching personnel member in a regional university shall be any full-time staff member excluding the president, vice presidents, academic deans, and academic department chairpersons. He ***or she*** shall represent all nonteaching university employees including, but not limited to, building facilities and clerical personnel. ***The member***[~~He~~] shall be elected by secret ballot by the nonteaching employees. The nonteaching personnel member shall serve a term of three (3) years and until ***a***[~~his~~] successor is elected and qualified. The nonteaching personnel member shall be eligible for reelection, but he ***or she*** shall not be eligible to continue to serve as a member of the board if he ***or she*** ceases being an employee of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(b) The nonteaching personnel members in the Kentucky Community and Technical College System shall be any full-time staff member excluding a president, chancellor, vice president, academic dean, academic department chair, or other administrator. They shall represent all nonteaching employees in their respective branch institutions including, but not limited to, support and clerical personnel. One (1) member shall be a representative from the community colleges and one (1) member shall be a representative from the technical institutions. They shall serve three (3) year terms and until their successors are named. These two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member. The nonteaching personnel members of each branch shall be elected by means of a process established by the board. A nonteaching personnel member may be reelected but shall not serve more than two (2) consecutive terms. A nonteaching employee shall be ineligible to continue to serve as a member of the board if that employee ceases to be a nonteaching employee at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(8) (a) The student member on a regional university board shall be the president of the student body of the university

during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his ***or her*** position as student body president or[~~ his~~] status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(b) Two (2) full-time student members shall be elected to the board of regents for the Kentucky Community and Technical College System. One (1) shall represent students of the community colleges and one (1) shall represent the technical institutions. The student members shall be elected by means of a process established by the board. The student members shall serve one (1) year terms beginning with the first meeting of the fiscal year that contains the academic year. If the student member does not maintain his or her status as a full-time student, a special election shall be held to fill the vacancy. The two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member.

(9) All persons appointed after May 30, 1997, shall be required to attend and complete an orientation program prescribed by the council under KRS 164.020, as a condition of their service.

(10) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council.

[~~(11) The initial board of the Kentucky Community and Technical College System shall be appointed by July 31, 1997:~~

~~(a) By not later than thirty (30) days after May 30, 1997, the Governor's Postsecondary Nominating Committee shall submit nominations to the Governor as set forth in subsection (1) of this section for initial appointments to the board.~~

~~(b) By June 10, 1997, the board of trustees for the University of Kentucky shall submit nominations to the Governor, as set forth in subsection (1) of this section, for initial appointments to the board. For any subsequent appointment to be made from nominations from the board of trustees, the board of trustees shall forward nominations thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen vacancy. If the Governor needs nominees of a particular sex in order to make an appointment, the board of trustees shall only provide nominees of that sex.~~]

Section 3. KRS 164.350 is amended to read as follows:

(1) The government of each of the state universities and the Kentucky Community and Technical College System is vested in its respective board of regents. Each board of regents, when its members have been appointed and qualified, shall constitute a body corporate, with the usual corporate powers, and with all immunities, rights, privileges, and franchises usually attaching to the governing bodies of educational institutions. Each board may:

(a) Receive grants of money and expend the same for the use and benefit of the university or college;

(b) Adopt bylaws, rules, and regulations for the government of its members, officers, agents, and employees, and enforce obedience to such rules;

(c) Require such reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time;

(d) Determine the number of divisions, departments, bureaus, offices, and agencies needed for the successful conduct of the affairs of the university or college; and

(e) Grant diplomas and confer degrees upon the recommendation of the president and faculty.

(2) Each board of regents shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the strategic agenda. Officers and officials shall be held accountable for the status of the institution's progress.

(3) In addition to the duties required in subsections (1) and (2) of this section, the board of regents for the Kentucky Community and Technical College System, upon recommendation of the president of the system, shall:

(a) Develop and implement guidelines for the preparation of biennial budget requests by the administrators of the ***colleges within the system***[~~Technical Institutions' Branch and the University of Kentucky Community College System~~]. The guidelines[~~ pertaining to community colleges~~] shall define the processes for review and approval by the boards of directors for the[~~ community~~] colleges;

(b) Adopt a biennial budget request for[~~ each branch of~~] the Kentucky Community and Technical College System upon the recommendation of the[~~ chancellor for the respective branch and the~~] president of the system[~~.~~

~~1. The board of regents shall submit the biennial budget request for the Technical Institutions' Branch to the Council on Postsecondary Education for its action.~~

~~2. The board of regents shall transmit the biennial budget request for the University of Kentucky Community College System to the board of trustees of the University of Kentucky for consideration. The board of trustees shall review the biennial budget request for the University of Kentucky Community College System and shall transmit the biennial budget request for the University of Kentucky Community College System,~~

~~along with recommendations to the council for its action.~~

3. ~~The biennial budget request for the University of Kentucky, adopted by the board of trustees, shall identify the amount of funds by source and related purpose in the biennial budget request for administering the University of Kentucky Community College System except for the Lexington Community College.~~

4. ~~All funds that are appropriated to the University of Kentucky for administering the Community College System, except for the Lexington Community College, shall be transferred and allotted to the board of regents~~];

(c) Adopt an allocation process for distributing[~~ the~~] funds[~~ appropriated to the Technical Institutions' Branch and the University of Kentucky Community College System by the General Assembly~~] to the ***colleges***[~~institutions~~] within the system;[~~ and~~]

(d) Consider recommendations from the boards of directors of the[~~ community~~] colleges to improve the overall budget planning and allocation processes***;***

(e) Designate each college with a name;

(f) Encourage and accept donations of land and funds to be used in the acquisition, construction, or operations of colleges in the system. The board may commemorate donations from private persons or corporations with suitable memorials; and

(g) Accept federal grants when deemed appropriate to be used in the acquisition, construction, or operations of colleges in the system.

The board of regents shall assure that the budget planning and implementation processes are consistent with the adopted strategic agenda and biennial budget and with the missions of the institutions within the system.

Section 4. KRS 164.580 is amended to read as follows:

(1) The Kentucky Community and Technical College System is established. The Kentucky Community and Technical College System shall provide:

(a) A general two (2) year academic curriculum with credits transferable to two (2) year and four (4) year colleges and universities;

(b) Technical and semiprofessional programs of two (2) years or less;

(c) Within a two (2) year college curriculum, courses in general education, including adult education, not necessarily intended for transfer nor technically oriented; and

(d) Services to Kentucky's employers and the general public to provide continuing education and customized training for purposes of improving the knowledge and skills of Kentucky workers and citizens in all regions of the state.

(2) The Kentucky Community and Technical College System shall be responsive to the needs of students and employers in all regions of the Commonwealth with accessible education and training to support the lifelong learning needs of Kentucky citizens in order to:

(a) Increase the basic academic and literacy skills of adults through adult basic education and remedial education services;

(b) Increase the technical skills and professional expertise of Kentucky workers through associate and technical degrees, diploma, and certificate programs;

(c) Increase the access for students to complete the prebaccalaureate associate degree in arts or associate degree in science for ease of transfer to four (4) year institutions;

(d) Enhance the relationship of credentials between secondary and postsecondary programs which permit secondary students to enter programs through early admission, advanced placement, or dual enrollment;

(e) Facilitate transfers of credit between certificate, diploma, technical, and associate degree programs;

(f) Develop a pool of educated citizens to support the expansion of existing business and industry and the recruitment of new business and industry;

(g) Enhance the flexibility and adaptability of Kentucky workers in an ever- changing and global economy through continuing education and customized training for business and industry;

(h) Promote the cultural and economic well-being of the communities throughout Kentucky; and

(i) Improve the quality of life for Kentucky's citizens.

(3) Students attending ***a college***[~~the University of Kentucky Community College System~~] under the administration of the board of regents for the Kentucky Community and Technical College System may pursue ***three (3)***[~~four (4)~~] kinds of degree programs:

(a) Associate degree programs approved by the board of trustees as of the effective date of the transfer of the management responsibilities of the University of Kentucky Community College System to the Kentucky Community and Technical College System[~~. These programs shall be periodically reviewed by a process established by the board of trustees of the University of Kentucky. A report shall be forwarded to the chancellor of~~

~~the University of Kentucky Community College System, the board of regents, and the board of trustees. If the board of trustees finds that a degree program does not meet its prescribed standards of quality and the institution does not correct the deficiencies within a two (2) year period, the board of trustees may recommend to the Council on Postsecondary Education that the program no longer bear the name of the University of Kentucky. The board of trustees of the University of Kentucky shall confer degrees and award diplomas for these programs]~~;

(b)[~~ New associate degree programs to be awarded in the name of the University of Kentucky. These degree programs shall be reviewed and approved by the board of regents prior to submission to the University of Kentucky board of trustees for approval. The programs shall be offered only after the approval of the Council on Postsecondary Education. The board of trustees shall confer degrees and award diplomas for these programs;~~

~~(c)~~] Associate degree programs developed by the Kentucky Community and Technical College System, approved by the board of regents and the Council on Postsecondary Education. The board of regents shall confer degrees and award diplomas for the approved programs; and

(c)[~~(d)~~]Joint degree programs developed between the[~~ University of~~] Kentucky Community ***and Technical*** College System and[~~ the Technical Institutions' Branch or~~] other institutions.

(4) [~~Degrees shall be conferred upon community college students and their diplomas awarded by the~~]University of Kentucky ***Community College System students who were officially enrolled on or before June 30, 1999, in associate degree programs approved by the*** board of trustees ***of***[~~. If the regional accrediting agency for the community colleges in the process of completing its substantive change process review determines that the organizational structure of the Kentucky Community and Technical College System and its board of regents does not meet the requirements for accrediting individual community colleges and for granting of degrees by~~] the University of Kentucky ***and who complete the associate degree programs on or before June 30, 2004, shall have their degrees conferred by the University of Kentucky board of trustees. The degrees for all other students enrolled shall be awarded by the*** board of ***regents for***[~~trustees, then~~] the Kentucky Community and Technical College ***System***[~~board of regents and the board of trustees shall initiate corrective actions within thirty (30) days of notification from the accrediting agency or within the time table specified by the accrediting agency to alleviate the problem~~].

(5) The board of regents for the Kentucky Community and Technical College System shall expedite, whenever possible, action on requests for any new technical or associate degree program of a vocational-technical or occupational nature.

(6) The ***Kentucky Community and Technical College System***[~~ University of Kentucky community~~] college faculty ***senates***[~~senate~~] shall have the primary responsibility for determining academic policy and curricula development that shall be recommended [~~through the chancellor~~]to the president of the Kentucky Community and Technical College System[~~ and to the board of regents for approval~~].

(7) The Technical Institutions' Branch through its faculty and accrediting procedures may develop[~~ technical~~] degree programs that shall be considered for approval by the board of regents and the Council on Postsecondary Education. A graduate of a program within three (3) years of the program becoming an accredited[~~ technical~~] degree program shall receive all or partial credit toward the degree, based on criteria established by the institution and approved by the board of regents. The board of regents shall confer degrees and award diplomas for these programs.

Section 5. KRS 164.600 is amended to read as follows:

(1) As used in this section, ***unless the context requires otherwise:***

(a) "Chief executive officer" means a president or the head administrator of a college within the Kentucky Community and Technical College System;

(b) "College" means a community college, a technical college, or a community and technical college within the system;

(c) "President" means the chief executive officer of the system;

(d) "Relative" means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law***; and***

(e) "System" means the Kentucky Community and Technical College System.

(2) There shall be a board of directors for each community college ***or community and technical college*** under the Kentucky Community and Technical College System, except as provided in KRS 165.160. ***The board of regents may designate that a local board of directors serve more than one (1) college.*** Each board of directors shall:

(a) Recommend one (1) candidate for[~~ the community~~] college ***chief executive officer***[~~president~~] from three (3) candidates provided by the president[~~ of the Kentucky Community and Technical College System~~]. The president shall have the authority to make the final appointment and shall not be bound by the recommendation from the board of directors;

(b) Evaluate the[~~ community~~] college ***chief executive officer***[~~president~~] and advise the ***president***[~~chancellor~~] of his or her performance. The president has final authority for the appointment and termination of the[~~ community~~] college ***chief executive officer***[~~president~~];

(c) Approve budget requests for recommendation to the Kentucky Community and Technical College System;

(d) Adopt and amend an annual operating budget and submit it to the board of regents[~~ of the Kentucky Community and Technical College System~~] for approval as to the compliance with its guidelines;

(e) Approve[~~ and implement~~] a strategic plan that is developed in coordination with local employers, civic leaders, campus constituents, and other postsecondary institutions in the region and that is consistent with the strategic agenda of the General Assembly.

(3) The ***chief executive officer***[~~president~~] of each[~~ community~~] college shall have full authority and discretion regarding the use and management of the budget approved by the board of regents for the Kentucky Community and Technical College System under KRS 164.350.

(4) Each board of directors shall consist of ten (10) members, seven (7) of whom shall be appointed by the Governor from nominees of the respective[~~ community~~] college nominating commission established under KRS 164.602 for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The other three (3) board members shall be one (1) member of the teaching faculty, one (1) member of the staff, and one (1) member of the student body. An appointed member's term shall be six (6) years.

(5) The faculty member shall be on the teaching or research faculty of the[~~ community~~] college. The faculty member shall be elected by secret ballot of all full-time faculty members of the[~~ community~~] college. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the boards if they cease to be members of the teaching staff of the[~~ community~~] college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(6) The staff member shall be a classified or midmanagement employee who does not hold faculty rank and who does not hold an upper administrative position. The staff member shall be elected by secret ballot of all full-time staff members of the[~~ community~~] college. Staff members shall serve for terms of three (3) years and until their successors are elected and qualified. Staff members shall be eligible for reelection, but shall be ineligible to continue to serve as members of the boards if they cease to be members of the staff of the[~~ community~~] college. An election to fill a vacancy for an unexpired term shall be held in the same manner as an election to an original full term.

(7) The student member shall be ***elected by secret ballot from*** the[~~ president of the~~] student body of the[~~ community~~] college ***to serve a term of one (1) year***.[~~ If~~] The [~~president of the~~] student ***member shall be***[~~body is not~~] a full-time student who maintains permanent residency in the Commonwealth of Kentucky[~~, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member~~].

(8) ***If a board of directors is designated by the board of regents to serve more than one (1) college as permitted under subsection (2) of this section, the board of regents shall define procedures for the selection of the faculty, staff, and student representatives to the board of directors to ensure that there is opportunity for all colleges to be represented.***

(9) The members of the board of directors shall receive no compensation for their services but shall be paid for their actual and necessary expenses.

(10)[~~(9)~~] No citizen member of the board of directors shall have a conflict of interest in accordance with KRS 45A.340 or be a relative of any employee of the[~~ community~~] college under its jurisdiction. A person who is a member of the board on July 15, 1998, who is a relative of an employee of the[~~ community~~] college may finish out the appointed term of office but the member may not be reappointed.

[~~(10) The board of regents of the Kentucky Community and Technical College System may extend this type of local governance authority to each postsecondary technical institution under its control, subject to review and approval by the Council on Postsecondary Education.~~]

Section 6. KRS 164.602 is amended to read as follows:

(1) There shall be a nominating commission for each[~~ community~~] college board of directors ***required under KRS 164.600*** to provide names of nominees to the Governor for appointment to the board of directors.

(2) (a) Each nominating commission shall be composed of five (5) members appointed by the Governor who shall reside in the service area of the[~~ community~~] college at the time of their appointment. Commission members shall have no conflict of interest in accordance with KRS 45A.340 or have a relative employed by a public postsecondary institution, the Council on Postsecondary Education, the Kentucky Higher Education Assistance Authority, the Kentucky Higher Education Student Loan Corporation, or the Kentucky Authority for Educational Television.

(b) Members of the nominating commission shall serve four (4) year terms, or until a successor shall be appointed, except the initial appointments shall be as follows:

1. One (1) member shall serve a one (1) year term;
2. Two (2) members shall serve a two (2) year term;
3. One (1) member shall serve a three (3) year term; and
4. One (1) member shall serve a four (4) year term.

(3) The Governor shall appoint commission members who reflect, inasmuch as possible, equal representation of the two (2) sexes and in the context of the total membership of all of the commissions, shall approximate the proportional

representation of the two (2) leading political parties and the minority racial composition of the state.

(4) (a) The nominating commission shall submit to the Governor the names of three (3) nominees for each position on the board of directors who meet the eligibility criteria for membership under KRS 164.600.

(b) In the selection of the nominees, the nominating commission shall consider the needs of the respective[~~community~~] college, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as necessary. The commission shall consider the goals for diversity of membership as set out in subsection (3) of this section.

(c) Each appointment to the board of directors shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen vacancy. The Governor may reject all names of nominees and request the submission of three (3) additional names for consideration.

(5) The members of the commissions shall be reimbursed for actual and necessary expenditures incurred in the performance of their duties.

(6) The nominating commissions shall be attached to the Kentucky Community and Technical College System and the Governor's office staff shall provide staffing and administrative assistance.

Section 7. KRS 164A.575 is amended to read as follows:

(1) The governing boards of each institution may elect to purchase interest in real property, contractual services, rentals of all types, supplies, materials, equipment, printing, and services, except that competitive bids may not be required for:

(a) Contractual services where no competition exists;

(b) Food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies;

(c) Instructional materials available from only one (1) source;

(d) Where rates are fixed by law or ordinance;

(e) Library books;

(f) Commercial items that are purchased for resale;

(g) Professional, technical, scientific, or artistic services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725;

(h) All other commodities, equipment, and services which, in the reasonable discretion of the board, are available from only one (1) source; and

(i) Interests in real property.

(2) Nothing in this section shall deprive the boards from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between General Services Administration and the vendor affected.

(3) The governing board shall require the institution to take and maintain inventories of plant and equipment.

(4) The governing board shall establish procedures to identify items of common general usage among all departments to foster volume purchasing. It shall establish and enforce schedules for purchasing supplies, materials, and equipment.

(5) The governing board shall have power to salvage, to exchange, and to condemn supplies, equipment, and real property.

(6) Upon the approval of the secretary of the Finance and Administration Cabinet, the governing board may purchase or otherwise acquire all real property determined to be needed for the institution's use. The amount paid shall not exceed the appraised value as determined by a qualified appraiser or the value set by the eminent domain procedure. Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.

(7) The governing board shall sell or otherwise dispose of all real or personal property of the institution which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the board. The determination of the board shall be set forth in an order, and shall be reached only after review of a written request by the institution desiring to dispose of the property. Such request shall describe the property and state the reasons why the institution believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the appropriate officer of the board. Unless the board deems it in the best interest of the institution to proceed otherwise, all such real or personal property shall be sold either by invitation of sealed bids or by public auction; provided, however, that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the Finance and Administration Cabinet or the Transportation Cabinet for such requirements of that department.

(8) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employee of any board of the institution, based upon a written application by the grantor or lessor approved by the board, that the employee has not either himself or through any other person influenced or attempted to influence either the board requesting the purchase of the property. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(9) For capital construction projects, the bidding may be on a total design-bid basis, a package system commonly referred to as "turnkey," or construction management, whichever in the judgment of the board offers the lowest real cost to the taxpayer. Bids shall be reviewed by the institution's engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(10) The governing board shall attempt in every practicable way to insure the institution's supplying its real needs at the lowest possible cost. To accomplish this the board may enter into cooperative agreements with other public or private institutions of education or health care.

(11) The governing board shall have control and supervision over all purchases of energy consuming equipment, supplies, and related equipment purchased or acquired by the institution, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.

(12) The governing board may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency must be fully explained, in writing, by the vice president responsible for business affairs and such explanation must be approved by the university president. The letter and approval shall be filed with the record of all such purchases. Where practical, standard specifications shall be followed in making emergency purchases. A good faith effort shall be made to effect a competitively established price for emergency purchases.

(13) The acquisition and disposition of real property for the ***colleges under the jurisdiction of the Kentucky Community and Technical College board of regents that are the property of the*** University of Kentucky[~~ Community College System and capital construction projects under KRS 45.750(1)(f) on real property for the use of the University of Kentucky Community College System~~] shall be approved by the Kentucky Community and Technical College System board of regents, which shall transmit the action to the University of Kentucky board of trustees for approval.

Section 8. The following KRS sections are repealed:

164.581 President of Kentucky Community and Technical College System -- Chancellors of Community College System and Technical Institutions' Branch.

164.5815 President's biennial report.

164.595 Powers of board of regents for the Kentucky Community and Technical College System.

164.597 Northern Community College to be operated by Northern Kentucky University -- Programs.

SB 167, AN ACT relating to equity in hiring in the public schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.500 is amended to read as follows:

(1) [~~The General Assembly directs that~~]Appointments made by the appointing authority to every board, commission, council, or other type of advisory or decision-making body created ***by state statute regarding public elementary and secondary education shall***[~~or reenacted by the Education Reform Act of 1990~~] reflect reasonable minority representation of the membership and[~~ that~~] active minority participation at every level of implementation ***shall*** be continually encouraged.

(2) Every board, commission, council, or other type of advisory or decision-making body created by state statute or administrative regulation regarding public elementary and secondary education shall regularly review data on participation of men, women, persons of different racial backgrounds, and persons of different socioeconomic circumstances in the programs for which that body is responsible. The review shall include data required by Section 5 of this Act and shall also include data on student participation in classes and programs within the authority of that body.

Section 2. KRS 158.6455 is amended to read as follows:

It is the intent of the General Assembly that schools succeed with all students and receive the appropriate consequences in proportion to that success.

(1) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish a system for identifying and rewarding successful schools. A reward shall be distributed to successful schools based on the number of full-time, part-time, and itinerant certified staff employed in the school on the last working day of the year of the reward to be used for school purposes as determined by the school council or, if none exists, the principal. The Kentucky Board of Education shall identify reports, paperwork requirements, and administrative regulations from which high performing schools shall be exempt.

(b) Effective July 1, 2006, the Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below five percent (5%).

(2) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate by administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A the formula for a school accountability index to classify schools every two (2) years based on whether they have met their threshold level for school improvement, with school years 1998-2000 serving as the baseline. The formula shall reflect the school goals described in KRS 158.6451, except there shall be no measurement of the goals included in subsection (1)(b)3. and (1)(b)4.

(3) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish appropriate consequences for schools failing to meet their threshold. The consequences shall be designed to improve teaching and learning and may include, but not be limited to:

(a) A scholastic audit process under subsection (4) of this section to determine the appropriateness of a school's classification and to recommend needed assistance;

(b) School improvement plans;

(c) Eligibility to receive Commonwealth school improvement funds under KRS 158.805;

(d) Education assistance from highly skilled certified staff under KRS 158.782;

(e) Evaluation of school personnel; and

(f) Student transfer to successful schools.

(4) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A establishing the guidelines for conducting scholastic audits, which shall include the process for:

1. Appointing and training team members. The team shall include at least a highly skilled certified educator under KRS 158.782, a teacher, a principal or other local district administrator, a parent, and a university faculty member;

2. Reviewing a school's learning environment, efficiency, and academic performance of students and the quality of the school council's data analysis and planning in accordance with ***Section 1 of this Act and*** KRS 160.345(2)(j);

3. Evaluating each certified staff member assigned to the school. Only certified members of the audit team shall evaluate personnel; and

4. Making a recommendation to the Kentucky Board of Education about the appropriateness of a school's classification and a recommendation concerning the assistance required by the school to improve teaching and learning.

(b) For information purposes, the board shall also conduct scholastic audits in a sample of schools that achieved their goal and report to the public on the resulting findings regarding each aspect of the schools' operations required under subparagraph 2. of paragraph (a) of this subsection.

(5) (a) Notwithstanding subsections (2), (3), and (4) of this section and KRS 158.645 to 158.805, the Kentucky Board of Education, after receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation in conformity with the provisions of KRS 158.6471 and 158.6472 and in accordance with KRS Chapter 13A, establishing a formula for school accountability and a school improvement goal for each school for the 1998-1999 and 1999-2000 school years, with the 1996-97 and 1997-98 school years serving as the baseline. The formula shall be based on the academic and nonacademic components that are administered in a consistent manner during the four (4) year period.

(b) 1. The Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below eight percent (8%).

2. Schools failing to improve as identified by the board shall be reviewed by a scholastic audit team appointed by the state board under subsection (4) of this section. The audit shall not include a formal evaluation of each certified staff member. The team shall determine whether the school shall have highly skilled education assistance for advisory purposes. All schools failing to achieve their goal shall develop a school improvement plan and shall be eligible for school improvement funds under KRS 158.805.

(6) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education may promulgate by administrative regulation, in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, a system of district accountability that includes establishing a formula for accountability, goals for

improvement over a two (2) year period, rewards for leadership in improving teaching and learning in the district, and consequences that address the problems and provide assistance when the district fails to achieve its goals set by the board.

(7) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, to establish a process whereby a school shall be allowed to appeal a performance judgment which it considers grossly unfair. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. The state board may adjust a performance judgment on appeal when evidence of highly unusual circumstances warrants the conclusion that the performance judgment is based on fraud or a mistake in computations, is arbitrary, is lacking any reasonable basis, or when there are significant new circumstances occurring during the biennial assessment period which are beyond the control of the school.

Section 3. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;
2. Instructional programs operated in institutions or schools outside of the district; or
3. Alternative schools designed to provide services to at-risk populations with unique needs;

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers; and

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or
2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal or head teacher shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;

(h) From a list of applicants ***who meet the qualifications established by the local board and whose names are*** submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with subsection (2)(i)10. of this section. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons ***who meet the qualifications established by the local board and are*** recommended by the local superintendent. When a vacancy in the school principalship occurs, the school council shall receive training ***that meets criteria established by the Kentucky Department of Education*** in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training. ***Prior to filling a vacancy, the council and the screening and hiring committees shall review the current minority and gender composition of the personnel in the school to determine if there is adequate representation of the various groups.*** Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request when qualified applicants are available;

(i) ***The school council shall adopt a policy establishing procedures for selection of a principal, including but not limited to meetings, timelines, interviews, review of written applications, review of references, and development of written criteria for selection;***

(j) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;
2. Assignment of all instructional and noninstructional staff time;
3. Assignment of students to classes and programs within the school;
4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
5. Determination of use of school space during the school day;
6. Planning and resolution of issues regarding instructional practices;
7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;
9. Procedures, consistent with local school board policy, for determining alignment with state standards,

technology utilization, and program appraisal; and

10. Procedures to assist the council with consultation in the selection of personnel by the principal, including, but not limited to, meetings, timelines, interviews, review of written applications, and review of references ***and selection criteria***. Procedures shall address situations in which members of the council are not available for consultation; and

(k)~~[(j)]~~ Each school council shall annually review data on its students' performance as shown by the Commonwealth Accountability Testing System. The data shall include, but not be limited to, information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council shall adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b). The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than December 31 of each year. If a school does not have a council, the review shall be completed by the principal.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;

(d) Professional development plans developed pursuant to KRS 156.095;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education, and school council members shall complete the required training no later than thirty (30) days after the beginning of the service year for which they are elected to serve. By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has

been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements specified in KRS 156.095. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

Section 4. KRS 160.350 is amended to read as follows:

(1) ***When there is a vacancy in the position of superintendent, the local board of education and the screening committee, as provided in KRS 160.352 shall receive training that meets the criteria established by the Department of Education in recruitment and interviewing techniques prior to carrying out the process of selecting a superintendent.***

(2) When there is a vacancy in the position of superintendent, the local board of education shall establish written criteria to be used by the screening committee, as provided in KRS 160.352 in recommending and the local board of education in selecting an applicant to be hired.

(3) When there is a vacancy in the position of superintendent, and before the notification required in Section 5 of this Act is made, the local board of education shall adopt a plan pursuant to administrative regulations of the Kentucky Board of Education for recruitment of applicants, including minority applicants, for that position. After completing the selection of the superintendent, the local board shall report on the activities conducted to recruit minority applicants.

(4) After considering the recommendations of a screening committee, as provided in KRS 160.352, each board of education shall appoint a superintendent of schools whose term of office shall begin on July 1, following his appointment. The appointment may be for a term of no more than four (4) years. In the event a vacancy occurs in the office of superintendent prior to the expiration of the term set by the board, the term shall expire on the date the vacancy occurs. Therefore, the board may appoint a superintendent for a new term as provided in this subsection, which shall begin on the date of the superintendent's appointment, except when the vacancy occurs after a school board election and before the newly elected members take office. When a vacancy occurs during this period, the position shall not be filled until the new members take office, but the board may appoint an acting superintendent to serve a term not to exceed six (6) months. This appointment may be renewed once for a period not to exceed three (3) months. If a vacancy occurs, a local board may also appoint an acting superintendent during the period the screening committee pursuant to KRS 160.352 conducts its business and prior to the actual appointment of the new superintendent. No superintendent shall resign his term and accept a new term from the same board of education prior to the expiration date of his present term. In the case of a vacancy in the office for an unexpired term, the board of education shall make the appointment so that the term will end on June 30. The board shall set the salary of the superintendent to be paid in regular installments.

(5)[~~(2)~~] Before any superintendent assumes his duties, he shall present to the board of education that appointed him a statement signed by the chief state school officer that the superintendent has been duly issued a certificate of administration and supervision issued in accordance with the provisions of law and which qualifies him to hold the position to which he has been appointed, and he shall hold such certificate throughout the period of his employment. A superintendent candidate who is to begin his duties after June 30, 1994, shall successfully complete the training program and assessment center process within one (1) year of assuming his duties as superintendent. A superintendent shall not serve as director or officer of a bank, trust company, or savings or loan association which has his school district funds on deposit. Following appointment, the superintendent shall establish residency in Kentucky.

(6)[~~(3)~~] A superintendent of schools may be removed for cause by a vote of four-fifths (4/5) of the membership of a board of education and upon approval by the chief state school officer. However, if the dismissal of the superintendent has been recommended by a highly skilled certified educator pursuant to KRS 158.6455 and the action is approved by the chief

state school officer, the board shall terminate the superintendent's contract. Written notice setting out the charges for removal shall be spread on the minutes of the board and given to the superintendent. The board shall seek approval by the chief state school officer for removing the superintendent. The chief state school officer shall investigate the accuracy of the charges made, evaluate the superintendent's overall performance during his appointment, and consider the educational performance of the students in the district. Within thirty (30) days of notification, he shall either approve or reject the board's request.

(7)[~~(4)~~] After the completion of a superintendent's first contract or after four (4) years, whichever comes last, the board of education may, no later than June 30, extend the contract of the superintendent for one (1) additional year beyond the current term of employment.

Section 5. KRS 160.380 is amended to read as follows:

(1) As used in this section:

(a) ***"District-level vacancy" means any position vacancy created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a staff member in a local school district or a new position created in a local district except those for which hiring is governed by the school-based decision making process established under Section 3 of this Act.***

(b) "Relative" shall mean father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.

(c)[~~(b)~~]"Vacancy" shall mean any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.

(2) (a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the Kentucky Board of Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself to another position within the school district.

(b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer thirty (30) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing.

(c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days.

(d) When a vacancy occurs ***in any certified or classified position*** in a local district, the superintendent shall conduct a search to locate minority ***candidates***[~~teachers~~] to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky Board of Education, report annually the district's recruitment process***,***[~~ and~~] the activities used to increase the percentage of minority ***employees***[~~teachers~~] in the district***, and the district's plan for recruitment for the next school year.***

(e) The superintendent shall establish written criteria, which may be the job descriptions, to be used in selecting applicants to be hired in district-level vacancies.

(f)[~~(e)~~] No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is a classified or certified employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office, or prior to marrying a relative of the superintendent, and who is qualified for the position the employee holds. A superintendent's spouse who has at least twenty (20) years of service in school systems may be an employee of the school district. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote a relative who continues employment under an exception of this subsection.

(g)[~~(f)~~] No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection.

(h)[~~(g)~~] 1. No principal's relative shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year.

2. No spouse of a principal shall be employed in the principal's school, except:

a. A principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district; or

b. A principal's spouse who was employed in the 1989-90 school year and is in a school district containing no more than one (1) elementary school, one (1) middle school, and one (1) high school.

3. A principal's spouse who is employed in the principal's school shall be evaluated by a school administrator other than the principal.

4. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph.

(3) No superintendent shall employ in any position in the district any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony. The superintendent may employ, at his discretion, persons convicted of sex crimes classified as a misdemeanor.

(4) (a) Beginning January 1, 1999, a superintendent shall require a national and state criminal background check on all new certified hires in the school district and student teachers assigned within the district. Excluded are certified individuals who were employed in another certified position in a Kentucky school district within six (6) months of the date of hire and who had previously submitted to a national and state criminal background check for the previous employment.

(b) The superintendent shall require that each new certified hire and student teacher, as set forth in paragraph (a) of this subsection, submit to a national and state criminal history background check by the Kentucky State Police and the Federal Bureau of Investigation.

(c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation from the Kentucky State Police after a state criminal background check is conducted. The results of the state and federal criminal background check shall be sent to the hiring superintendent. Any fee charged by the Kentucky State Police and the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the search.

(d) The Education Professional Standards Board may promulgate administrative regulations to impose additional qualifications to meet the requirements of Public Law 92-544.

(5) A superintendent shall require a state criminal background check on all classified initial hires.

(a) The superintendent shall require that each classified initial hire submit to a state criminal history background check by the Kentucky State Police.

(b) Any request for records under this section shall be on an applicant fingerprint card provided by Kentucky State Police. The results of the state criminal background check shall be sent to the hiring superintendent. Any fee charged by the Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.

(6) (a) If a school term has begun and a certified or classified position remains unfilled or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the criminal history background check. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.

(b) Employment shall be contingent on the receipt of the criminal history background check documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165.

(c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the school district of a criminal history background check documenting a record of a sex crime or as a violent offender as defined in KRS 17.165 and no further procedures shall be required.

(d) The provisions of KRS 161.790 shall apply to terminate employment of a certified employee on the basis of a criminal record other than a record of a sex crime or as a violent offender as defined in KRS 17.165.

(7) (a) Each application or renewal form, provided by the employer to an applicant for a classified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."

(b) Each application or renewal form, provided by the employer to an applicant for a certified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A

NATIONAL AND STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."

(8) The provisions of subsections (4), (5), (6), and (7) of this section shall apply to a nonfaculty coach or nonfaculty assistant as defined under KRS 161.185.

Section 6. KRS 158.153 is amended to read as follows:

(1) Unless the action is taken pursuant to KRS 158.150, no school, school administrator, teacher, or other school employee shall expel or punish a child based on information contained in a record of an adjudication of delinquency or conviction of an offense received by the school pursuant to KRS 610.345 or from any other source. Nothing in this subsection shall be construed to prohibit a local school board or school official from instituting disciplinary proceedings against any student for violating the discipline policy of the school or school district or taking actions necessary to protect staff and students. Actions to protect staff and students may be taken only after the principal makes a determination that the conduct of the student reflected in the records of the school or obtained by the school from the court indicates a substantial likelihood of an immediate and continuing threat that the student will cause harm to students or staff, and that the restrictions to be ordered represent the least restrictive alternative available and appropriate to remedy the threat, and that the determination and supporting material be documented in the child's record. The action of the principal, in addition to or in lieu of any other procedure available, may be appealed by the child or the child's parent or guardian to the superintendent of the school system or to the Circuit Court in the county in which the school is located, and the appealing party may be represented by counsel.

(2) No school, school administrator, teacher, or other school employee who has custody of records received or maintained by the school pursuant to KRS 610.345 or who has received information contained in or relating to a record received by the school pursuant to KRS 610.345 shall disclose the fact of the record's existence, or any information contained in the record or received from the record to any other person, including but not limited to other teachers, school employees, pupils, or parents other than the pupil, or parents of the pupil who is the subject of the record.

(3) The child and his parent or guardian shall have a civil cause of action against the school board and against any school administrator violating subsection (1) or (2) of this section or divulging information in violation of KRS 610.345 or 610.340. This civil cause of action shall be in addition to any other criminal or administrative remedy provided by law.

(4) Nothing in this section shall be construed to prohibit a local board of education from establishing districtwide standards of behavior for students who participate in extracurricular and cocurricular activities, including athletics. A school principal may deny or terminate a student's eligibility to participate in extracurricular or cocurricular activities if the student has violated the local district behavior standards or the council's criteria for participation, as described in KRS 160.345(2)*(j)*[~~(i)~~]8. A student's right to participate in extracurricular or cocurricular activities, including athletics, may be suspended, pending investigation of an allegation that the standards of behavior have been violated.

Section 7. KRS 158.6455 is amended to read as follows:

It is the intent of the General Assembly that schools succeed with all students and receive the appropriate consequences in proportion to that success.

(1) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish a system for identifying and rewarding successful schools. A reward shall be distributed to successful schools based on the number of full-time, part-time, and itinerant certified staff employed in the school on the last working day of the year of the reward to be used for school purposes as determined by the school council or, if none exists, the principal. The Kentucky Board of Education shall identify reports, paperwork requirements, and administrative regulations from which high performing schools shall be exempt.

(b) Effective July 1, 2006, the Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below five percent (5%).

(2) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate by administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A the formula for a school accountability index to classify schools every two (2) years based on whether they have met their threshold level for school improvement, with school years 1998-2000 serving as the baseline. The formula shall reflect the school goals described in KRS 158.6451, except there shall be no measurement of the goals included in subsection (1)(b)3. and (1)(b)4.

(3) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish appropriate consequences for schools failing to meet their threshold. The consequences shall be designed to improve teaching and learning and may include, but not be limited to:

(a) A scholastic audit process under subsection (4) of this section to determine the appropriateness of a school's classification and to recommend needed assistance;

(b) School improvement plans;

(c) Eligibility to receive Commonwealth school improvement funds under KRS 158.805;

(d) Education assistance from highly skilled certified staff under KRS 158.782;

(e) Evaluation of school personnel; and

(f) Student transfer to successful schools.

(4) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A establishing the guidelines for conducting scholastic audits, which shall include the process for:

1. Appointing and training team members. The team shall include at least a highly skilled certified educator under KRS 158.782, a teacher, a principal or other local district administrator, a parent, and a university faculty member;

2. Reviewing a school's learning environment, efficiency, and academic performance of students and the quality of the school council's data analysis and planning in accordance with KRS 160.345(2)***(k)***~~[(j)]~~;

3. Evaluating each certified staff member assigned to the school. Only certified members of the audit team shall evaluate personnel; and

4. Making a recommendation to the Kentucky Board of Education about the appropriateness of a school's classification and a recommendation concerning the assistance required by the school to improve teaching and learning.

(b) For information purposes, the board shall also conduct scholastic audits in a sample of schools that achieved their goal and report to the public on the resulting findings regarding each aspect of the schools' operations required under subparagraph 2. of paragraph (a) of this subsection.

(5) (a) Notwithstanding subsections (2), (3), and (4) of this section and KRS 158.645 to 158.805, the Kentucky Board of Education, after receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation in conformity with the provisions of KRS 158.6471 and 158.6472 and in accordance with KRS Chapter 13A, establishing a formula for school accountability and a school improvement goal for each school for the 1998-1999 and 1999-2000 school years, with the 1996-97 and 1997-98 school years serving as the baseline. The formula shall be based on the academic and nonacademic components that are administered in a consistent manner during the four (4) year period.

(b) 1. The Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below eight percent (8%).

2. Schools failing to improve as identified by the board shall be reviewed by a scholastic audit team appointed by the state board under subsection (4) of this section. The audit shall not include a formal evaluation of each certified staff member. The team shall determine whether the school shall have highly skilled education assistance for advisory purposes. All schools failing to achieve their goal shall develop a school improvement plan and shall be eligible for school improvement funds under KRS 158.805.

(6) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education may promulgate by administrative regulation, in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, a system of district accountability that includes establishing a formula for accountability, goals for improvement over a two (2) year period, rewards for leadership in improving teaching and learning in the district, and consequences that address the problems and provide assistance when the district fails to achieve its goals set by the board.

(7) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, to establish a process whereby a school shall be allowed to appeal a performance judgment which it considers grossly unfair. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. The state board may adjust a performance judgment on appeal when evidence of highly unusual circumstances warrants the conclusion that the performance judgment is based on fraud or a mistake in computations, is arbitrary, is lacking any reasonable basis, or when there are significant new circumstances occurring during the biennial assessment period which are beyond the control of the school.

SB 210, AN ACT relating to the Kentucky Board of Education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.070 is amended to read as follows:

(1) The Kentucky Board of Education shall have the management and control of the common schools and all programs operated in these schools, including interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for the Blind, and community education programs and services.

(2) The Kentucky Board of Education may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations, and bylaws of any organization or agency so designated shall be approved by the board, and provided further that any administrative hearing conducted by the designated managing organization or agency shall be conducted in accordance with KRS Chapter 13B.

(a) The state board or its designated agency shall assure through promulgation of administrative regulations that if a secondary school sponsors or intends to sponsor an athletic activity or sport that is similar to a sport for which National Collegiate Athletic Association members offer an athletic scholarship, the school shall sponsor the athletic activity or sport for which a scholarship is offered. The administrative regulations shall specify which athletic activities are similar to sports for which National Collegiate Athletic Association members offer scholarships.

(b) ***Beginning with the 2003-2004 school year, the state board shall require any agency or organization designated by the state board to manage interscholastic athletics to adopt bylaws that establish as members of the agency's or organization's board of control one (1) representative of nonpublic member schools who is elected by the nonpublic school members of the agency or organization from regions one (1) through eight (8) and one (1) representative of nonpublic member schools who is elected by the nonpublic member schools of the agency or organization from regions nine (9) through sixteen (16). The nonpublic school representatives on the board of control shall not be from classification A1 or D1 schools. Following initial election of these nonpublic school representatives to the agency's or organization's board of control, terms of the nonpublic school representatives shall be staggered so that only one (1) nonpublic school member is elected in each even numbered year.***

(c) The state board or any agency designated by the state board to manage interscholastic athletics shall not promulgate rules, administrative regulations, or bylaws which prohibit pupils in grades seven (7) to eight (8) from participating in any high school sports except for high school varsity soccer and football, or from participating on more than one (1) school-sponsored team at the same time in the same sport. The Kentucky Board of Education, or an agency designated by the board to manage interscholastic athletics, may promulgate administrative regulations restricting, limiting, or prohibiting participation in high school varsity soccer and football for students who have not successfully completed the eighth grade.

(d)[~~(c)~~]Any student who turns nineteen (19) years of age prior to August 1 shall not be eligible for high school athletics in Kentucky. Any student who turns nineteen (19) years of age on or after August 1 shall remain eligible for that school year only.

(e)[~~(d)~~]If the state board or any agency designated by the state board to manage interscholastic athletics promulgates administrative regulations that permit a school district to employ or assign nonteaching personnel to serve in a coaching position, those administrative regulations shall apply to all sports and sports activities, including basketball and football. The administrative regulations shall give preference to the hiring or assignment of certified personnel over nonteaching personnel in coaching positions***.***

(3) (a) The Kentucky Board of Education is hereby authorized to lease from the State Property and Buildings Commission, or others, whether public or private, any lands, buildings, structures, installations, and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. The lease may be for any initial term commencing with the date of the lease and ending with the next ensuing June 30, which is the close of the then-current fiscal biennium of the Commonwealth, with exclusive options in favor of the board to renew the same for successive ensuing bienniums, July 1 in each even year to June 30 in the next ensuing even year; and the rentals may be fixed at the sums in each biennium, if renewed, sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on, and provide reserves for, any revenue bonds which the State Property and Buildings Commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring the television and related facilities, with appurtenances, and costs as may be incident to the issuance of the bonds.

(b) Each option of the Kentucky Board of Education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the chief state school officer, and delivered to the secretary of the Finance and Administration Cabinet as a member of the commission. The option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the Finance and Administration Cabinet before the close of business on the last working day in April immediately preceding the beginning of the succeeding biennium.

(c) The Kentucky Board of Education shall not itself operate leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the chief state school officer and the Department of Education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to the reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any lease and to the cost of providing for the operation of the television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises, and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

(4) The state board may, on the recommendation and with the advice of the chief state school officer, prescribe, print, publish, and distribute at public expense such administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports, and placards as each deems necessary for the efficient management, control, and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by the board shall be *enclosed*[~~inclosed~~] in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.

(5) Upon the recommendation of the chief state school officer or his designee, the state board shall establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets, and all other matters which are the administrative responsibility of the Department of Education.

The Committee on Judiciary reported **SB 139**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Referred to the Committee on Rules.

The Committee Substitute to **SB 139** is as follows:

SB 139, AN ACT relating to private investigators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 329A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 17 of this Act:

(1) "Board" means the Kentucky Board of Licensure for Private Investigators;

(2) "Company" means a firm, association, sole proprietorship, partnership, corporation, nonprofit organization, institution, or similar enterprise;

(3) "Investigating company" or "company licensee" means a company engaged in private investigating that is licensed under Sections 1 to 17 of this Act;

(4) "Private investigating" means the act of any individual or company engaging in the business of obtaining or furnishing information with reference to:

(a) Crime or wrongs done or threatened against the United States or any state or territory of the United States;

(b) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputations, or character of any person;

(c) The location, disposition, or recovery of lost or stolen property;

(d) The cause or responsibility for fires, losses, accidents, damages, or injuries to persons or to property;

(5) "Private investigator" or "individual licensee" means a person who is engaged in private investigating and licensed in accordance with the provisions of Sections 1 to 17 of this Act; and

(6) "Qualifying agent" means a principal corporate officer, such as the chief executive officer, president, vice president, treasurer-secretary, comptroller, or any other responsible officer or executive employee, who is designated by the corporation to represent it in matters relating to Sections 1 to 17 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

No person or company shall hold himself or herself out to the public as a private investigator or use any terms, titles, or abbreviations that express, infer, or imply that the person is licensed as a private investigator unless the person at the time holds a license to practice private investigating issued and validly existing under the laws of this Commonwealth as provided in this chapter. All applicants shall pass a criminal background check based on criteria established under Section 6 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Board of Licensure for Private Investigators is hereby created.

(2) The board shall consist of seven (7) members appointed by the Governor.

(a) One (1) member shall be an attorney from the office of the Attorney General to be designated by the Attorney General;

(b) One (1) member shall be a municipal police officer of the rank of captain or above;

(c) One (1) member shall be a county sheriff;

(d) Three (3) members shall each have been private investigators for at least five (5) years prior to the date of their appointment and shall be of recognized business standing; and

(e) One (1) member shall be a citizen at large who is not associated with or financially interested in the practice of private investigating.

(3) All members shall be residents of this state and possess good moral character.

(4) The original members of the board shall be appointed by no later than January 1, 2003, as follows:

(a) One (1) member to a one (1) year term;

(b) Two (2) members to a two (2) year term;

(c) Two (2) members to a three (3) year term; and

(d) Two (2) members to a four (4) year term.

(5) After the initial appointments to the board, all members shall serve a two (2) year term.

(6) Any vacancy occurring on the board shall be filled by the Governor.

(7) No member may serve more than two (2) full consecutive terms.

(8) The three (3) board members who are private investigators and the member at large shall receive the sum of one hundred dollars ($100) per day for each day the board meets. All members shall receive reimbursement for actual and necessary expenses incurred in the performance of their official duties.

(9) The board shall annually elect a chairman, a vice chairman, and a secretary-treasurer from the membership of the board.

(10) The board shall hold at least two (2) meetings annually and additional meetings as the board may deem necessary. Additional meetings may be held upon call of the chairman or upon written request of a quorum. Four (4) members of the board shall constitute a quorum to conduct business.

(11) Upon recommendation of the board, the Governor may remove any member of the board for neglect of duty or malfeasance in office.

(12) The board may purchase professional liability insurance for the board members and agents and staff of the board.

SECTION 4. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) The board shall administer and enforce the provision of Sections 1 to 17 of this Act and shall evaluate the qualifications of applicants for licensure and issue licenses.

(2) The board shall:

(a) Implement the provisions of Sections 1 to 17 of this Act through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A;

(b) Promulgate administrative regulations to establish fees which shall not exceed the amounts necessary to generate sufficient funds to effectively carry out and enforce the provisions of Sections 1 to 17 of this Act;

(c) Promulgate by administrative regulation an examination to be administered at least twice annually to license applicants. The examination shall be designed to measure knowledge and competence in private investigating including, but not limited to, the following subject areas:

1. Federal and state constitutional principles;

2. Court decisions related to activities which could result in liability for the invasion of privacy or other activities;

3. Eavesdropping and related offenses, assault and related offenses, search and seizure laws, and laws regarding unlawful access to a computer;

4. General weapons use and concealed weapons laws;

5. Additional state criminal laws and related procedures that are relevant to the practice of private investigating; and

6. Additional subject areas as determined by the board; and

(d) Promulgate by administrative regulation a code of professional practice and conduct that shall be based upon generally recognized principles of professional ethical conduct and be binding upon all licensees.

(3) The board may:

(a) Contract with the Division of Occupations and Professions within the Finance and Administration Cabinet for the provision of administrative services;

(b) Employ any persons it deems necessary to carry on the work of the board. The board may define their duties and fix their compensation;

(c) Develop or sponsor at least six (6) hours of continuing professional education annually;

(d) Approve and certify a forty (40) hour training class covering the subject areas of the licensing examination;

(e) Renew licenses and require continuing professional education as a condition for renewal;

(f) Suspend or revoke licenses, impose supervisory or probationary conditions upon licensees, impose administrative disciplinary fines, or issue written admonishments or reprimands, or any combination thereof;

(g) Issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of Sections 1 to 17 of this Act;

(h) Conduct hearings pursuant to KRS Chapter 13B and keep records and minutes necessary to carry out the board's functions;

(i) Organize itself into two (2) panels to separate the functions of inquiry and hearings. Each panel shall have the power to act as either an inquiry or hearing panel. No member serving on the inquiry panel shall serve on the hearing panel for any one (1) particular case. Any final decision of the hearing panel shall be considered as the final decision of the board and the hearing panel may exercise all powers granted to the board pursuant to KRS Chapter 13B;

(j) Utilize mediation as a technique to resolve disciplinary matters;

(k) Seek injunctive relief in the Circuit Court of the county where the alleged unlawful practice occurred to stop the unlawful practice of private investigating by unlicensed persons or companies; and

(l) Negotiate and enter into reciprocal agreements with appropriate officials in other states to permit licensed investigation companies and private investigators who meet or exceed the qualifications established in Sections 1 to 17 of this Act to operate across state lines under mutually acceptable terms.

SECTION 5. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) All fees and other moneys received by the board pursuant to the provisions of Sections 1 to 17 of this Act shall be deposited in the State Treasury to the credit of a revolving fund for the use of the board.

(2) No part of this revolving fund shall revert to the general fund of this Commonwealth.

(3) The revolving fund may be used to pay for:

(a) The compensation and reimbursement of board members for actual and necessary expenses incurred in the performance of official duties;

(b) The compensation of all of the employees of the board;

(c) Those operational and capital expenses incurred in fulfilling the board's duties as described in Sections 1 to 17 of this Act and in administrative regulations; and

(d) The development or sponsorship of at least six (6) hours of continuing education courses annually, to be conducted in various areas of the state.

SECTION 6. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) An application for a private investigator license shall be filed with the board on the prescribed form.

(a) The application shall include the following information regarding the applicant:

1. Full name and address;

2. Date and place of birth;

3. Social Security number;

4. All residences during the past five (5) years;

5. All employment or occupations engaged in during the past five (5) years;

6. Three (3) sets of classifiable fingerprints;

7. Three (3) credit references from lending institutions or business firms with whom the subject has established a credit record; and

8. Any other information as the board may reasonably require by administrative regulation.

(b) The application shall be subscribed and sworn to by the applicant.

(2) An application for an investigating company license shall be filed with the board on the prescribed form.

(a) The application shall include:

1. The information required in subsection (1)(a) of this section for:

a. The owner, if the company is a sole proprietorship;

b. Each partner, if the company is a partnership; or

c. The qualifying agent, if the company is a corporation;

2. The name under which the company intends to do business;

3. The address of the principal place of business and any branch offices of the company within this state; and

4. Other information as the board may reasonably require by administrative regulation.

(b) If the company is a corporation, the following information is also required:

1. The correct legal name of the corporation;

2. The state and date of incorporation;

3. The date the corporation qualified to do business in this state;

4. The address of the corporate headquarters, if located outside of this state;

5. The names of two (2) principal corporate officers other than the qualifying agent, their business addresses, residence addresses, and the office held by each in the corporation; and

6. The identity and license number of all private investigators employed by or affiliated with the company.

(c) The application shall be subscribed and sworn to by:

1. The owner, if the applicant is a sole proprietorship;

2. Each partner, if the applicant is a partnership; or

3. The qualifying agent, if the applicant is a corporation.

(3) Each applicant for an individual license or owner, partner, or qualifying agent for a company license shall:

(a) Be at least twenty-one (21) years of age;

(b) Be a citizen of the United States or a resident alien;

(c) Have a high school education or its equivalent;

(d) Not receive a license until the earlier of:

1. The expiration of ten (10) years from the applicant's release from a sentence imposed by any state or territory of the United States or the federal government for the commission of a felony, including a sentence of confinement or time served on probation, parole, or other form of conditional release or discharge; or

2. The date the applicant received a restoration of the applicant's civil rights;

(e) Not have been convicted of a misdemeanor involving moral turpitude or for which dishonesty is a necessary element within the previous five (5) years;

(f) Not have been dishonorably discharged from any branch of the Armed Forces of the United States;

(g) Not have had his or her certification as a peace officer revoked in this or another state;

(h) Not have been declared by any court of competent jurisdiction to be incompetent by reason of mental defect or disease unless a court of competent jurisdiction has since declared the applicant to be competent;

(i) Not have been voluntarily or involuntarily committed to a facility or outpatient program for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances within the three (3) year period immediately preceding the date on which the application is submitted;

(j) Not chronically and habitually use alcoholic beverages as evidenced by:

1. The applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) year period immediately preceding the date on which the application is submitted; or

2. The applicant having been committed as an alcoholic pursuant to KRS Chapter 222, or similar laws of any other state, within the three (3) year period immediately preceding the date on which the application is submitted;

(k) Not chronically and habitually use alcoholic beverages or drugs to the extent that his or her normal faculties are impaired;

(l) Be of good moral character;

(m) Pass an examination administered by the board in accordance with subsection (2)(c) of Section 4 of this Act; and

(n) Submit proof of coverage which meets the following requirements:

1. Is written by an insurance company which is lawfully engaged to provide insurance coverage in Kentucky;

2. Provides for a combined single-limit policy in the amount of at least two hundred fifty thousand dollars ($250,000); and

3. Insures for liability all of the applicant's employees while acting in the course of their employment.

Private investigators who limit their practice exclusively to working under the supervision of an attorney who is licensed to practice law in this state are exempted from the requirement of this paragraph.

(4) The board shall maintain the confidentiality of information relating to the licensee, except that the board may provide this information to local, state, or federal law enforcement agencies.

SECTION 7. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) Upon receipt of a license application, accompanied by a nonrefundable, nonproratable fee of not less than one hundred dollars ($100) and not more than five hundred dollars ($500), as established by the board by promulgation of administrative regulations, the board shall:

(a) Conduct an investigation to determine whether the statements made in the application are true; and

(b) Submit the application, including fingerprints as appropriate, to the Kentucky State Police and the Administrative Office of the Courts for a state criminal history background check. The Kentucky State Police may submit fingerprints of any applicant to the Federal Bureau of Investigation for a national criminal history background check. The board may by administrative regulation impose additional qualifications to meet the requirements of Pub. L. No. 92-544. The applicant for licensure shall bear the additional cost, in an amount not to exceed the actual cost, incurred for the criminal background check.

(2) Following the investigation process, the board shall either deny or approve the application.

(a) If the application for a license is denied, the board:

1. Shall notify the applicant in writing and set forth the grounds for denial. If the grounds are subject to correction by the applicant, the notice of denial shall so state and specify a reasonable period of time within which the applicant must make the correction; and

2. Shall grant a hearing to the denied applicant in accordance with the provisions of KRS Chapter 13B.

(b) If the application for a license is approved, the board shall issue:

1. A license to be posted conspicuously in the licensee's principal place of business; and

2. A wallet-sized laminated identification card to each individual licensee to be carried while engaged in private investigation. Information on the card shall include the expiration date of the license and the licensee's:

a. Name;

b. Photograph;

c. Physical characteristics; and

d. License number.

(3) A license or identification card issued under subsection (2) of this section is not assignable and is personal to the licensee.

SECTION 8. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) A license or renewal issued under Sections 1 to 17 of this Act shall be valid for two (2) years from the date of issuance. No later than May 1 in the license renewal year, the board shall send a renewal application form to the address on file for each licensee. The renewal application shall indicate if the licensee is required to submit passport-sized photographs for a new identification card.

(2) All renewal applications shall be received by the board on or before June 30 in the year of renewal.

(3) Each company license renewal shall include a notarized statement sworn to by the representative prescribed in subsection (2)(c) of Section 6 of this Act stating the identity and license number of each private investigator employed by or affiliated with the company.

(4) The fee for the timely renewal of a license shall be not less than fifty dollars ($50) and not more than two hundred fifty dollars ($250), as established by the board by promulgation of administrative regulations.

(5) For individual licensees, the board shall, at its discretion, issue either a new identification card or a renewal stamp or sticker to be affixed to the existing card.

(6) A grace period shall be allowed until September 1 of the license renewal year, during which time licensees may continue to practice and may renew their licenses upon payment of the renewal fee plus a late fee as promulgated by administrative regulation of the board.

(7) All licenses not renewed by September 1 of the renewal year shall terminate based on the failure to renew in a timely manner. Upon termination, the licensee is no longer eligible to practice in this state.

(8) After September 1 of the renewal year, former licensees with a terminated license may have their licenses reinstated upon payment of the renewal fee plus a reinstatement fee as promulgated by administrative regulation of the board. If the reinstatement application is made within five (5) years from the date of termination, applicants shall not be required to submit to any examination as a condition for reinstatement.

(9) A revoked license may not be renewed. If it is reinstated, the licensee shall pay the reinstatement fee as set forth in subsection (8) of this section and the renewal fee as set forth in subsection (4) of this section.

(10) A former licensee who fails to reinstate a license within five (5) years after termination may not have it renewed, restored, or reinstated. A person may apply for and obtain a new license by meeting the current requirements for licensure.

(11) The board may require that a person applying for a renewal or reinstatement of licensure show evidence of completion of continuing professional education as prescribed by the board in administrative regulations.

(12) A valid license may be put on inactive status by the licensee at the time of renewal, at a cost to be determined by the board.

SECTION 9. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) If the ownership of an investigating company changes, the new owner, if not already a licensee, shall not operate that company more than thirty (30) days after the date of the ownership change unless, within the thirty (30) day period, the new owner submits an application for a license.

(a) If the application is submitted, the new owner may continue to operate the company until the application has been finally determined by the board.

(b) The board may extend for a reasonable time the period for submitting an application under this subsection.

(2) If the qualifying agent of a company ceases to perform the duties of an agent on a regular basis, the licensee shall notify the board by certified or registered mail within thirty (30) days and substitute a new qualifying agent within ninety (90) days. The board may extend for a reasonable time the period for obtaining a substitute qualifying agent.

SECTION 10. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

No licensee shall:

(1) Use a badge for identification or make any statement which would reasonably cause another person to believe that the licensee functions as a sworn peace officer or other official of the state, any of its political subdivisions, or an agency of the federal government;

(2) Divulge to anyone, other than his or her client, or to such persons as his or her client may direct, or as may be required by law, any information acquired during such employment that may compromise the client, the person who is the subject of the investigation, or the investigation to which the licensee has been assigned;

(3) Knowingly make a material misrepresentation as to his or her ability to perform the investigation required by a potential client in order to obtain employment;

(4) Knowingly make a material misrepresentation to the client regarding the investigation; or

(5) Continue an investigation for a client when it becomes obvious to the licensee that a successful completion of an investigation is unlikely, unless the licensee advises the client and obtains the client's approval for continuation of the investigation.

SECTION 11. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) The board may investigate allegations of licensee wrongdoing upon complaint or upon its own volition. The board shall promulgate administrative regulations regarding the receiving and investigating of complaints.

(2) If the board's investigation reveals evidence supporting the complaint, the board shall set the matter for hearing pursuant to the provisions of KRS Chapter 13B before suspending, revoking, imposing probationary or supervisory conditions or an administrative fine, issuing a written reprimand, or any other combination of actions regarding any license under the provisions of Sections 1 to 17 of this Act.

(3) If, after an investigation that includes an opportunity for the licensee to respond, the board determines that a violation took place but was not of a serious nature, it may issue a written admonishment to the licensee. A copy of the admonishment shall be placed in the board's permanent licensure file. The licensee shall have the right to file a response to the admonishment within thirty (30) days of its receipt and to have that response placed in the board's permanent licensure file. The licensee may, within thirty (30) days of receipt, file a request for hearing with the board. Upon receipt of this request the board shall set aside the written admonishment and set the matter for hearing under the provisions of KRS Chapter 13B.

SECTION 12. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) The board may refuse to issue a license, or suspend, revoke, impose probationary conditions, impose an administrative fine, issue a written reprimand, or any combination thereof regarding any licensee upon proof that the licensee or applicant has:

  (a) Violated any provision of Sections 1 to 17 of this Act or any administrative regulation promulgated by the board;

  (b) Knowingly and willfully made a material misstatement in connection with an application for license or renewal;

  (c) Been convicted of a felony;

  (d) Practiced fraud, deceit, or misrepresentation;

  (e) Committed any act that would have been cause for refusal to issue the license had it existed and been known to the board at the time of issuance;

  (f) Been incompetent or negligent in the practice of private investigating; or

  (g) Violated the code of ethics promulgated by administrative regulation by the board.

(2) In addition to or in lieu of any other lawful disciplinary action under this section, the board may assess a civil penalty not exceeding two thousand dollars ($2,000).

(3) When the board issues a written reprimand to the licensee a copy of the reprimand shall be placed in the permanent file of the licensee. The licensee shall have the right to submit a response within thirty (30) days of its receipt and to have that response filed in the permanent file.

(4) At any time during the investigative or hearing processes, the board may accept an assurance of voluntary compliance from the licensee if the assurance effectively deals with the complaint.

(5) The board may reconsider, modify, or reverse its probation, suspension, or other disciplinary action.

(6) Any party aggrieved by a disciplinary action of the board may bring an action in Franklin Circuit Court pursuant to the provisions of KRS Chapter 13B.

(7) A license shall be subject to expiration and renewal during any period in which the license is suspended.

SECTION 13. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 17 of this Act do not apply to:

(1) An officer or employee of the United States, this state, another state, or any political subdivision thereof, performing his or her official duties within the course and scope of his or her employment;

(2) A public accountant, certified public accountant, or the bona fide employee of either, performing duties within the scope of public accountancy;

(3) A person engaged exclusively in the business of obtaining and furnishing information regarding the financial rating or standing and credit of persons;

(4) An attorney-at-law, or an attorney's bona fide employee, performing duties within the scope of the practice of law;

(5) An insurance company, licensed insurance agent, or staff or independent adjuster if authorized to do business in Kentucky, performing investigative duties limited to matters strictly pertaining to an insurance transaction;

(6) A person engaged in compiling genealogical information, or otherwise tracing lineage or ancestry, by primarily utilizing public records and historical information or databases;

(7) A private business employee conducting investigations relating to the company entity by which he or she is employed;

(8) An individual obtaining information or conducting investigations on his or her own behalf; or

(9) An employee of a private investigator or a private investigating firm who works under the direction of the private investigator or the private investigating firm for less than three hundred fifty (350) hours per year.

SECTION 14. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) A licensee shall notify the board in writing within thirty (30) days of:

  (a) Any material change in the information previously furnished or required to be furnished to the board;

  (b) Any occurrence that could reasonably be expected to affect the licensee's right to a license under Sections 1 to 17 of this Act, including but not limited to any criminal charges placed against the licensee or employees of the licensee;

  (c) Any change in insurance coverage required under Section 6 of this Act; and

  (d) Any claims, judgments, or settlements against the licensee, the licensee's employees, or the licensee's insurance company.

(2) An investigative company shall notify the board in writing within thirty (30) days of any criminal charges filed against an investigator employed by or affiliated with the company.

SECTION 15. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

Any person violating Section 2 of this Act shall be guilty of a Class A misdemeanor.

SECTION 16. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

The General Assembly intends, by the provisions of this chapter, to occupy the entire field of regulation and licensing of private investigators. No cities, counties, urban-county governments, charter counties, consolidated local governments, or other political subdivisions of the Commonwealth may adopt or continue in effect any ordinance, resolution, regulation, or rule regarding the regulation of private investigators. Nothing in this section shall be construed to abrogate any authority afforded by this chapter to the Kentucky Board of Licensure of Private Investigators.

SECTION 17. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

Sections 1 to 17 of this Act may be cited as the Kentucky Private Investigators Licensing Act.

Section 18. (1) Any private investigating firm that has had its headquarters in the Commonwealth of Kentucky for at least two (2) years prior to the effective date of this Act shall receive a license automatically upon filing the appropriate application and paying the appropriate fee by April 1, 2003.

(2) Any person actively engaged in full-time or part-time investigatory work in this state as a private investigator or as an investigator for a law enforcement agency for a continuous period of at least two (2) years prior to the effective date of this Act shall receive a license upon:

(a) Filing an application with the board prior to April 1, 2003, including supporting documentation;

(b) Paying the licensure fee; and

(c) Passing the examination administered by the board in accordance with Section 4 of this Act unless the board, in its discretion and on a case by case basis, waives the examination requirement.

The Committee on Judiciary reported **SB 80,** with Committee Substitute attached thereto, **SB 246,** with Committee Substitute attached thereto, **SB 262,** with Committee Substitute attached thereto, and **SB 291** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 80, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 508.025 is amended to read as follows:

(1) A person is guilty of assault in the third degree when the actor:

(a) Recklessly, with a deadly weapon or dangerous instrument, or intentionally causes or attempts to cause physical injury to:

1. A state, county, city, or federal peace officer;
2. An employee of a detention facility, or state residential treatment facility or state staff secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender;
3. An employee of the Department for Community Based Services ***or the Department of Juvenile Justice*** employed as a social worker ***or a community services worker*** to provide direct client services, if the event occurs while the worker is performing job related duties; or
4. A probation and parole officer;[~~or~~]
5. ***A public or private elementary or secondary school or school district classified or certified employee, school bus driver, or other school employee acting in the course and scope of the employee's employment; or***
6. ***A public or private elementary or secondary school or school district volunteer acting in the course and scope of that person's volunteer service for the school or school district; or***

(b) Being a person confined in a detention facility, or state residential treatment facility or state staff secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender, inflicts physical injury upon or throws or causes feces, or urine, or other bodily fluid to be thrown upon an employee of the facility.

(2) Assault in the third degree is a Class D felony.

The Committee Substitute to **SB 80** is as follows:

SB 80, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 508.025 is amended to read as follows:

(1) A person is guilty of assault in the third degree when the actor:

(a) Recklessly, with a deadly weapon or dangerous instrument, or intentionally causes or attempts to cause physical injury to:

1. A state, county, city, or federal peace officer;

2. An employee of a detention facility, or state residential treatment facility or state staff secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender;

3. An employee of the Department for Community Based Services employed as a social worker to provide direct client services, if the event occurs while the worker is performing job related duties; or

4. A probation and parole officer;[~~ or~~]

5. A public or private elementary or secondary school or school district classified or certified employee, school bus driver, or other school employee acting in the course and scope of the employee's employment; or

6. A public or private elementary or secondary school or school district volunteer acting in the course and scope of that person's volunteer service for the school or school district; or

(b) Being a person confined in a detention facility, or state residential treatment facility or state staff secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender, inflicts physical injury upon or throws or causes feces, or urine, or other bodily fluid to be thrown upon an employee of the facility.

(2) Assault in the third degree is a Class D felony.

SB 246, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 531.030 is amended to read as follows:

(1) A person is guilty of distribution of obscene material to minors when, knowing a person to be a minor, or having possession of such facts that he should reasonably know that such person is a minor, and with knowledge of the content and character of the material, he knowingly:

(a) Sends or causes to be sent; or

(b) Exhibits; or

(c) Distributes, or offers to distribute, obscene material to a minor.

(2) Distribution of obscene materials to minors is a Class ***D felony***[~~A misdemeanor~~] unless the defendant has previously been convicted of violation of this section or of KRS 531.020, in which case it shall be a Class ***C***[~~D~~] felony.

Section 2. KRS 531.040 is amended to read as follows:

(1) A person is guilty of using minors to distribute obscene material when knowing a person to be a minor, or having possession of such facts that he should reasonably know such person is a minor, and knowing of the content and character of the material, he knowingly:

(a) Hires; or

(b) Employs; or

(c) Uses, a minor to do or assist in doing any of the acts prohibited by KRS 531.020.

(2) Using minors to distribute obscene material is a Class ***D felony***[~~A misdemeanor~~] unless the defendant has previously been convicted of violation of this section or KRS 531.030, in which case it shall be a Class ***C***[~~D~~] felony.

Section 3. KRS 531.335 is amended to read as follows:

(1) A person is guilty of possession of matter portraying a sexual performance by a minor when, having knowledge of its content, character, and that the sexual performance is by a minor, he knowingly has in his possession or control any matter which visually depicts an actual sexual performance by a minor person.

(2) Possession of matter portraying a sexual performance by a minor is a Class ***D felony***[~~A misdemeanor~~] for the first offense and a Class ***C***[~~D~~] felony for ***each***[~~the second and~~] subsequent ***offense***[~~offenses~~].

Section 4. KRS 531.340 is amended to read as follows:

(1) A person is guilty of distribution of matter portraying a sexual performance by a minor when, having knowledge of its content and character, he:

(a) Sends or causes to be sent into this state for sale or distribution; or

(b) Brings or causes to be brought into this state for sale or distribution; or

(c) In this state, he:

1. Exhibits for profit or gain; or
2. Distributes; or
3. Offers to distribute; or
4. Has in his possession with intent to distribute, exhibit for profit or gain or offer to distribute, any matter portraying a sexual performance by a minor.

(2) Any person who has in his possession more than one (1) unit of material coming within the provision of KRS 531.300(2) shall be rebuttably presumed to have such material in his possession with the intent to distribute it.

(3) Distribution of matter portraying a sexual performance by a minor is a Class ***C***[~~D~~] felony.

Section 5. KRS 531.350 is amended to read as follows:

(1) A person is guilty of promoting sale of material portraying a sexual performance by a minor when he knowingly, as a condition to a sale, allocation, consignment, or delivery for resale of any paper, magazine, book, periodical, publication or other merchandise, requires that the purchaser or consignee receive any matter portraying a sexual performance by a minor, or he denies or threatens to deny a franchise, revokes or threatens to revoke, or imposes any penalty, financial or otherwise, by reason of the failure of any person to accept such matter, or by reason of the return of such matter.

(2) Promoting sale of matter portraying a sexual performance by a minor is a Class ***D felony***[~~A misdemeanor~~] for the first offense, a Class ***C***[~~D~~] felony for the second offense, and a Class ***(B)***[~~C~~] felony for each subsequent offense.

Section 6. KRS 531.360 is amended to read as follows:

(1) A person is guilty of advertising material portraying a sexual performance by a minor when, having knowledge of its content and character thereof, he writes or creates advertising or solicits anyone to publish such advertising or otherwise promotes the sale or distribution of matter portraying a sexual performance by a minor.

(2) Advertising material portraying a sexual performance by a minor is a Class ***D felony***[~~A misdemeanor~~].

The Committee Substitute to **SB 246** is as follows:

SB 246, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 531.340 is amended to read as follows:

(1) A person is guilty of distribution of matter portraying a sexual performance by a minor when, having knowledge of its content and character, he:

(a) Sends or causes to be sent into this state for sale or distribution; or

(b) Brings or causes to be brought into this state for sale or distribution; or

(c) In this state, he:

1. Exhibits for profit or gain; or
2. Distributes; or
3. Offers to distribute; or
4. Has in his possession with intent to distribute, exhibit for profit or gain or offer to distribute, any matter portraying a sexual performance by a minor.

(2) Any person who has in his possession more than one (1) unit of material coming within the provision of KRS 531.300(2) shall be rebuttably presumed to have such material in his possession with the intent to distribute it.

(3) Distribution of matter portraying a sexual performance by a minor is a Class D felony ***for the first offense and a Class C felony for each subsequent offense***.

Section 2. KRS 531.360 is amended to read as follows:

(1) A person is guilty of advertising material portraying a sexual performance by a minor when, having knowledge of its content and character thereof, he writes or creates advertising or solicits anyone to publish such advertising or otherwise promotes the sale or distribution of matter portraying a sexual performance by a minor.

(2) Advertising material portraying a sexual performance by a minor is a Class A misdemeanor ***for the first offense and a Class D felony for each subsequent offense***.

SB 262, AN ACT relating to the administration of estates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 391.030 is amended to read as follows:

(1) Except as otherwise provided in this chapter, where any person dies intestate as to his *or her* personal estate, or any part thereof, the surplus, after payment of funeral expenses, charges of administration, and debts, shall pass and be distributed among the same persons, and in the proportions, to whom and in which real estate is directed to descend, except as follows:

(a) The personal estate of an infant shall be distributed as if he *or she* had died after full age.

(b) An alien may be distributee as though he *or she* were a citizen.

(c) Personal property or money on hand or in *a* bank *or other depository* to the amount of *fifteen*[~~seven~~] thousand[~~ five hundred~~] dollars *($15,000)*[~~($7,500)~~] shall be exempt from distribution and sale and shall be set apart by the District Court having jurisdiction over the estate on application to the surviving spouse, or, if there is no surviving spouse, to the *surviving* children[~~ surviving~~].

(2) The surviving spouse[~~ of any deceased person~~] may, at any time before the property or money is set apart by the court, procure on petition from the judge of the District Court having jurisdiction over administration of *the*[~~his~~] estate, an order authorizing *the surviving spouse*[~~him~~] to withdraw from any bank or other depository not exceeding one thousand dollars ($1,000) belonging to the estate of the deceased. Upon presentation of the order, the bank or depository shall permit *the surviving spouse*[~~him~~] to withdraw the sum and shall lodge the order, endorsing thereon the amount withdrawn, with the circuit clerk *who*[~~and he~~] shall retain it in his *or her* files to be considered in connection with further proceedings in the estate and the withdrawal shall be treated as a charge against the property of the estate exempt from distribution.

(3) In the application for the setting apart of property or money under *subsection (1) of* this section*,* the surviving spouse[~~,~~] or, if there is no surviving spouse, the *surviving* children may make their selection out of the personal property of the estate to the extent that the value of the property selected does not exceed the amount of *fifteen*[~~seven~~] thousand[~~ five hundred~~] dollars *($15,000)*[~~($7,500)~~].

[~~(4) The exemption provided in this section applies where the husband or wife dies testate.~~]

SECTION 2. A NEW SECTION OF KRS CHAPTER 394 IS CREATED TO READ AS FOLLOWS:

(1) Upon application of the surviving spouse, personal property or money on hand in a bank or other depository, up to the amount of fifteen thousand dollars ($15,000), and belonging to the estate of the deceased shall be exempt from distribution and sale and shall be set apart by the District Court having jurisdiction over the estate.

(2) Upon application of the surviving children, if there is no surviving spouse, personal property or money on hand or in a bank or other depository, up to the amount of fifteen thousand dollars ($15,000), and bequeathed to the surviving children shall be exempt from distribution and sale and shall be set apart by the District Court having jurisdiction over the estate.

(3) The exemption of the surviving spouse under subsection (1) of this section is not conditioned upon the surviving spouse renouncing the will and, in the event of renunciation, the surviving spouse shall be entitled to the exemption in addition to and prior to the determination of the statutory share of the surviving spouse under KRS 392.080.

SECTION 3. A NEW SECTION OF KRS CHAPTER 394 IS CREATED TO READ AS FOLLOWS:

(1) Upon application for the setting apart of property or money under subsection (1) of Section 2 of this Act, the surviving spouse shall make his or her selection out of the personal property of the estate except that he or she shall first select from among the personal property of the residuary estate then, to the extent necessary, from among the money on hand or on deposit that is specifically bequeathed under the will and then, to the extent necessary, from among any other personal property that is specifically bequeathed under the will.

(2) If the selection of the surviving spouse is made, in whole or in part, from personal property or money on hand or on deposit that is specifically bequeathed to a beneficiary, then such beneficiary shall have a right of contribution on the principles of KRS 394.420 to 394.490 unless the will otherwise directs, or it is necessarily to be inferred therefrom that the testator intended the same to fall on such devisee, except that the beneficiary shall have no right of contribution against the surviving spouse.

Section 4. KRS 395.455 is amended to read as follows:

(1) Where the *value of the probatable assets is less than or equal to the amount of the family exemption, if any, plus any preferred claims paid or owing*[~~exemption of the surviving spouse alone, or together with preferred claims paid by a widow or by the widower where the wife's estate is legally liable for payment, equals or exceeds the amount of probatable assets~~], the court may order that administration of the estate be dispensed with and *that* such assets be transferred *first* to the *person or persons entitled to the family exemption, if any, and next to the claimant or claimants who paid preferred claims or to whom they are owing, if any*[~~surviving spouse or to a person designated by such surviving spouse to receive all or part of such assets~~]. The court may so order *upon verified petition by one (1) or more persons or claimants entitled to all or part of such assets* in both testate and intestate estates and without requiring the renunciation of a will or the giving of bond.

(2) If the court is satisfied that no probatable estate will pass through the hands of the personal representative, it may order that no letters of administration be issued and in the case of a testate estate that the will be probated only.

(3) Where a surviving spouse has waived his or her right to the exemption accorded by law in favor of a person who has paid preferred claims in an amount equalling or exceeding the amount of probatable assets or who is legally entitled to such payment, or where there is no surviving spouse and such person has made such payment or is legally entitled thereto, the court may order that the administration of the estate be dispensed with and such assets transferred to such person. The court may so order without requiring the giving of bond.

(4) For ***purposes***[~~purpose~~] of this section***:***[~~,~~]

(a) The ***"family*** exemption***"***[~~of the surviving spouse~~] is ***the***[~~such~~] exemption[~~ as has been~~] created by ***Section 1 of this Act where the decedent dies without a will and Section 2 of this Act where the decedent leaves a valid will;***[~~KRS 391.030~~] and

(b) The "preferred claims***"*** are those listed in KRS 396.095 and in the order thereof.

The Committee Substitute to **SB 262** is as follows:

SB 262, AN ACT relating to the administration of estates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 391.030 is amended to read as follows:

(1) Except as otherwise provided in this chapter, where any person dies intestate as to his ***or her*** personal estate, or any part thereof, the surplus, after payment of funeral expenses, charges of administration, and debts, shall pass and be distributed among the same persons, and in the proportions, to whom and in which real estate is directed to descend, except as follows:

(a) The personal estate of an infant shall be distributed as if he ***or she*** had died after full age.

(b) An alien may be distributee as though he ***or she*** were a citizen.

(c) Personal property or money on hand or in ***a*** bank ***or other depository*** to the amount of ***fifteen***[~~seven~~] thousand[~~ five hundred~~] dollars ***($15,000)***[~~($7,500)~~] shall be exempt from distribution and sale and shall be set apart by the District Court having jurisdiction over the estate on application to the surviving spouse, or, if there is no surviving spouse, to the ***surviving*** children[~~ surviving~~].

(2) The surviving spouse[~~ of any deceased person~~] may, at any time before the property or money is set apart by the court, procure on petition from the judge of the District Court having jurisdiction over administration of ***the***[~~his~~] estate, an order authorizing ***the surviving spouse***[~~him~~] to withdraw from any bank or other depository not exceeding one thousand dollars ($1,000) belonging to the estate of the deceased. Upon presentation of the order, the bank or depository shall permit ***the surviving spouse***[~~him~~] to withdraw the sum and shall lodge the order, endorsing thereon the amount withdrawn, with the circuit clerk ***who***[~~and he~~] shall retain it in his ***or her*** files to be considered in connection with further proceedings in the estate and the withdrawal shall be treated as a charge against the property of the estate exempt from distribution.

(3) In the application for the setting apart of property or money under ***subsection (1) of*** this section***,*** the surviving spouse[~~,~~] or, if there is no surviving spouse, the ***surviving*** children may make their selection out of the personal property of the estate to the extent that the value of the property selected does not exceed the amount of ***fifteen***[~~seven~~] thousand[~~ five hundred~~] dollars ***($15,000)***[~~($7,500)~~].

(4) The exemption provided in this section applies where the husband or wife dies testate.

SB 291, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 520.100 is amended to read as follows:

(1) A person is guilty of fleeing or evading police in the second degree when***:***

(a) As a pedestrian, and with intent to elude or flee, the person knowingly or wantonly disobeys a direction to stop, given by a person recognized to be a peace officer who has an articulable reasonable suspicion that a crime has been committed by the person fleeing, and in fleeing or eluding the person is the cause of, or creates a substantial risk of, physical injury to any person; or[~~,~~]

(b) While operating a motor vehicle with intent to elude or flee, the person knowingly or wantonly disobeys a recognized direction to stop his vehicle, given by a person recognized to be a peace officer.

(2) No offense is committed under this section when the conduct involved constitutes a failure to comply with a directive of a traffic control officer.

(3) Fleeing or evading police in the second degree is a Class A misdemeanor.

Calendar

HR 32, SB 223, SB 193, SB 33, SB 156, SB 267, SB 271, SB 280, and **SB 257** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 128, SB 59, SB 164, SB 207, SB 211, SJR 109,** and **SJR 156** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:35 p.m.)

Representative Stumbo moved that the rules be suspended to act on a legislative citation. Agreed.

Representative Collins moved the adoption of the following **Legislative Citation No. 116.**

The House of Representatives of the Commonwealth of Kentucky hereby extends its sincerest condolences and genuine expressions of sympathy for the grievous death of Ray E. Preston. Members of the House of Representatives do honor Ray E. Preston and his devastated family, whose loss is irreplaceable. This prestigious body doth share in this phenomenal tragedy for both the Preston family and the community of Paintsville, Kentucky, where said recipient made a remarkable contribution to the community and its residents. Ray E. Preston was a respected citizen, loving husband and father who shall always be remembered for his successful terms as Sheriff of Johnson County and for the exceptional role he played in the business community. Therefore, this honorable body offers the hope that Ray E. Preston is serene beyond the cares and worries of this world and is now wearing that crown of jewels he so ardently deserved. The Kentucky House of Representatives doth hereby adjourn this twenty-seventh day of March, Two Thousand and Two in memory of this extraordinary person who is revered by many. Done in Frankfort, Kentucky this twenty-seventh day of March, in the year two thousand and two.

Legislative Citation No. 116 was adopted without objection.

Representative Westrom moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Westrom moved the adoption of the following **Legislative Citation No. 118.**

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the Morton Middle School Gold Cheerleading Squad for outstanding performance that resulted in this talented group of athletes winning the Middle School At-Large Championship title for the fourth year in a row and being named the recipients of the Grand Champion Award for having the top score in all divisions of this year's competition. Adding to a rich tradition of excellence that includes winning twenty-four first place trophies, one second place trophy and two third place trophies, as well as acquiring eight grand championships in the past four years and being selected to appear in a nationally televised Fazoli's commercial for their cheering skills, the members of this celebrated team have exhibited tremendous dedication and a laudable commitment to their sport by the effort put forth in this most worthwhile endeavor. Therefore, the members of this august body are honored to join Representative Susan Westrom in applauding the Morton Middle School Gold Cheerleading Squad for these notable achievements and in extending best wishes for continued landmarks of success and good fortune. Done in Frankfort, Kentucky, this twenty-seventh day of March, in the year two thousand and two.

Legislative Citation No. 118 was adopted without objection.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved to suspend the rules to allow for a Rules Committee report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **SCR 142, SB 126, SCR 92, HR 32, SB 33, SB 156, SB 193, SB 267, SB 271,** and **SB 139** have been posted for passage in the Orders of the Day for March 28, 2002.

Orders of the Day

HB 507, by way of Senate Committee Substitute, with Senate Committee Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non concurrence in Senate Amendments. Agreed.

The Senate Committee Substitute to **HB 507** is as follows:

HB 507, AN ACT relating to appropriations providing financing for the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state-supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, Road Fund, restricted funds accounts, or federal funds accounts for the fiscal year ending June 30, 2002, and for the fiscal year beginning July 1, 2002, and ending June 30, 2003, and for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following discrete sums, or so much thereof as may be necessary. Appropriated funds are included pursuant to KRS 48.700 and 48.710. Each appropriation is made by source of respective fund or funds accounts. Appropriations for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units of the state government, and any and all other activities of the government of the Commonwealth, are subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes and compliance with the conditions and procedures set forth in this Act.

Appropriations identified as General Fund (Tobacco) in Part I, Operating Budget, are representative of the amounts provided in Part XI, Phase I Tobacco Settlement, and are not to be appropriated in duplication.

A. GOVERNMENT OPERATIONS

Budget Units

1. EXECUTIVE OFFICE OF THE GOVERNOR

a. Office of the Governor

	2002-03	2003-04
General Fund	7,651,000	7,651,000
Restricted Funds	1,911,000	2,144,000
Federal Funds	71,000	71,000
TOTAL	9,633,000	9,866,000

Included in the above General Fund appropriation in each year of the biennium is $18,000 for the Governor's expense allowance and $10,000 for the Lieutenant Governor's expense allowance to meet additional expenses associated with the position of Governor of Kentucky and the position of Lieutenant Governor as specified in KRS 64.710.

b. Office of State Budget Director

	2002-03	2003-04
General Fund	3,665,000	3,665,000
Restricted Funds	923,000	1,318,000
TOTAL	4,588,000	4,983,000

c. State Planning Fund

	2002-03	2003-04
General Fund	490,000	490,000

The Governor is authorized to expend funds for the improvement and advancement of governmental purposes and activities. Included in the above General Fund appropriation is a grant of $25,000 in fiscal year 2002-2003 and $25,000 in fiscal year 2003-2004 to be awarded to the Bluegrass State Games to assist with planning and production of the games.

TOTAL - EXECUTIVE OFFICE OF THE GOVERNOR

	2002-03	2003-04
General Fund	11,806,000	11,806,000
Restricted Funds	2,834,000	3,462,000
Federal Funds	71,000	71,000
TOTAL	14,711,000	15,339,000

2. GOVERNOR'S OFFICE OF TECHNOLOGY

	2002-03	2003-04
General Fund	300,000	300,000
Restricted Funds	61,318,000	61,318,000
Road Funds	125,000	125,000
TOTAL	61,743,000	61,743,000

Included in the above Restricted Funds appropriation is $536,000 in fiscal year 2002-2003 and $536,000 in fiscal year 2003-2004 to fund the operating costs of the Office for Geographic Information Systems. These receipts will be derived from any state agency or university that benefits from the implementation of the Geographic Information Systems basemap technology. The Office of Geographic Information Systems shall recommend, and the Chief Information Officer (CIO) shall approve, the cost allocation plan. Upon approval by the CIO, the agencies and universities shall pay their proportional share of the plan.

3. GOVERNOR'S OFFICE OF VETERANS' AFFAIRS

	2002-03	2003-04
General Fund	14,448,500	15,163,700
Restricted Funds	18,448,100	19,332,000
TOTAL	32,896,600	34,495,700

4. GOVERNOR'S OFFICE OF EARLY CHILDHOOD DEVELOPMENT

	2002-03	2003-04
General Fund (Tobacco)	2,188,400	2,188,400
General Fund	213,500	213,500
Restricted Funds	50,000	
Federal Funds	175,000	175,000
TOTAL	2,626,900	2,576,900

5. KENTUCKY INFRASTRUCTURE AUTHORITY

	2002-03	2003-04
General Fund	-	6,111,000
Restricted Funds	2,579,000	2,568,000
Federal Funds	50,313,000	50,312,000
TOTAL	52,892,000	58,991,000

Included in the above General Fund appropriation is $6,111,000 in fiscal year 2003-2004 for debt service.

6. GOVERNOR'S OFFICE OF AGRICULTURAL POLICY

	2002-03	2003-04
General Fund (Tobacco)	47,688,000	39,434,000
Restricted Funds	155,900	161,000
TOTAL	47,843,900	39,595,000

7. KENTUCKY AGENCY FOR SUBSTANCE ABUSE POLICY

	2002-03	2003-04
General Fund (Tobacco)	2,574,800	2,236,600
General Fund	1,500,000	1,500,000
Federal Funds	111,700	111,700
TOTAL	4,186,500	3,848,300

8. SECRETARY OF STATE

	2002-03	2003-04
General Fund	2,360,100	2,360,100
Restricted Funds	878,500	1,006,600
TOTAL	3,238,600	3,366,700

The above Restricted Funds appropriations shall be used for the continuation of current activities within the General Administration unit and for the operations and staff of the Uniform Commercial Code Branch notwithstanding the provisions of KRS 14.140.

9. BOARD OF ELECTIONS

	2002-03	2003-04

General Fund	4,739,700	4,832,500
Restricted Funds	108,600	116,900
TOTAL	4,848,300	4,949,400

Included in the above General Fund appropriation is $3,335,300 in fiscal year 2002-2003 and $3,428,100 in fiscal year 2003-2004 to pay the state's share of county election expenses (KRS 117.345) and the state's share of voter registration expenses (KRS 116.145 and KRS 117.343). Notwithstanding KRS 117.345(2), the maximum state payment rate is increased from the current statutory level of $255 to $300 per precinct per election to each precinct using voting machines. Any amount that the state is required to pay in excess of the above amounts under the provisions of KRS 116.145, KRS 117.343, and KRS 117.345 shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

Special elections and additional precincts created by redistricting shall be deemed necessary governmental expenses and be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

10. TREASURY

	2002-03	2003-04
General Fund	2,275,900	2,275,900
Restricted Funds	815,700	834,500
TOTAL	3,091,600	3,110,400

Included in the Restricted Funds appropriation above is a recurring transfer from the Unclaimed Property Fund. In each respective fiscal year of the 2002-2004 biennium, $807,900 and $834,500 is appropriated to provide funding for services performed by the Unclaimed Property Division of the Treasury Department.

11. ATTORNEY GENERAL

	2001-02	2002-03	2003-04
General Fund	30,000	13,738,900	13,774,700
Restricted Funds		6,747,400	7,269,900
Federal Funds		2,351,400	2,351,400
TOTAL	30,000	22,837,700	23,396,000

Included in the above General Fund appropriation is $30,000 in fiscal year 2001-2002, pursuant to KRS 48.005(5). The appropriation is for the purpose of notifying consumers, not otherwise notified by Ford Motor Company, of their eligibility for possible restitution as a result of the multi-state settlement agreement with Ford Motor Company. If the settlement award is deposited subsequent to fiscal year 2001-2002, the General Fund appropriation for the notification of consumers regarding the Ford Motor Company settlement, shall not lapse, notwithstanding KRS 45.229, and shall be carried forward into fiscal year 2002-2003 for the same purpose. If the settlement award is deposited subsequent to fiscal year 2002-2003, the General Fund appropriation for the notification of consumers regarding the Ford Motor Company settlement, shall not lapse, notwithstanding KRS 45.229, and shall be carried forward into fiscal year 2003-2004 for the same purpose.

12. UNIFIED PROSECUTORIAL SYSTEM

a. Commonwealth's Attorneys

	2001-02	2002-03	2003-04
General Fund		25,108,000	26,745,300
Restricted Funds		843,300	200,000
Federal Funds	12,000	706,600	739,300
TOTAL	12,000	26,657,900	27,684,600

Included in the above General Fund appropriation is $258,400 in fiscal year 2002-2003 and $259,400 in fiscal year 2003-2004 to support a Commonwealth's Attorney and staff to service the 57th Judicial Circuit as authorized by the 2001 General Assembly.

Notwithstanding the provisions of KRS 218A.435(12), second sentence, which reads, "The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient," funds are recommended for appropriation to support the operations of the Commonwealth's Attorneys.

Included in the above General Fund appropriation are funds to provide each full-time Commonwealth's Attorney the sum of $1,000 each month, which is declared to be the equivalent of the minimum sum that the Commonwealth's Attorney will expend each month in the performance of the official duties directed to be performed for the Commonwealth, notwithstanding KRS 15.755(6).

Included in the above General Fund appropriation is $116,200 in fiscal year 2002-2003 and $106,400 in fiscal year 2003-2004 to provide funding for a full-time Commonwealth's Attorney office in the Fortieth Circuit.

Notwithstanding the provisions of KRS 15.247, KRS 15.705, and KRS 15.750 funds are authorized to support the operations of the Commonwealth's Attorneys.

b. County Attorneys

	2002-03	2003-04
General Fund	21,179,900	22,177,500
Restricted Funds	62,300	4,800
Federal Funds	414,700	434,800
TOTAL	21,656,900	22,617,100

Notwithstanding the provisions of KRS 218A.435(12), second sentence, which reads, "The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient," funds are recommended for appropriation to support the operations of the County Attorneys.

Included in the above General Fund appropriation are funds to provide each County Attorney the sum of $500 each month, which is declared to be the equivalent of the minimum sum that each County Attorney will expend each month in the performance of the official duties directed to be performed for the Commonwealth, notwithstanding KRS 15.765(2).

Notwithstanding the provisions of KRS 15.247 and KRS 15.705, funds are authorized to support the operations of the County Attorneys.

TOTAL - UNIFIED PROSECUTORIAL SYSTEM

	2001-02	2002-03	2003-04
General Fund		46,287,900	48,922,800
Restricted Funds		905,600	204,800
Federal Funds	12,000	1,121,300	1,174,100
TOTAL	12,000	48,314,800	50,301,700

13. AUDITOR OF PUBLIC ACCOUNTS

	2002-03	2003-04
General Fund	5,400,400	5,375,400
Restricted Funds	3,940,500	4,377,100
TOTAL	9,340,900	9,752,500

Notwithstanding KRS 43.200, no funding is provided for Auditor's scholarships.

14. AGRICULTURE

	2002-03	2003-04
General Fund	19,712,400	20,297,400
Restricted Funds	3,154,800	3,573,800
Federal Funds	2,130,000	2,130,000
TOTAL	24,997,200	26,001,200

Included in the above General Fund appropriation is $478,500 in fiscal year 2002-2003 and $478,500 in fiscal year 2003-2004 for the Breathitt Veterinary Center and $370,000 in fiscal year 2002-2003 and $370,000 in fiscal year 2003-2004 for the University of Kentucky for the diagnostic laboratories.

Included in the above General Fund appropriation is $100,000 in each fiscal year for the Agriculture/Economic Development joint trade office in Mexico. Notwithstanding KRS 45.229, any unexpended General Fund for the Mexico Trade Office shall be continued into the succeeding fiscal year, and the Cabinet for Economic Development shall assist in seeking and obtaining matching funds for the joint office.

Included in the above General Fund appropriation is $250,000 in fiscal year 2002-2003 and $250,000 in fiscal year 2003-2004 to carry out the provisions of KRS 438.335.

15. MILITARY AFFAIRS

	2002-03	2003-04
General Fund	10,979,900	10,979,900
Restricted Funds	18,680,500	18,796,200
Federal Funds	19,107,500	18,187,800
TOTAL	48,767,900	47,963,900

There is appropriated from the General Fund the necessary funds to be expended, subject to the conditions and procedures provided in this Act, which are required as a result of the Governor's call of the Kentucky National Guard to active duty when an emergency or exigent situation has been declared to exist by the Governor. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures in this Act, which are required to match federal aid to which the state would be eligible in the event of a presidentially-declared disaster or emergency. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

Included in the above General Fund appropriation is $420,000 in each fiscal year for the Youth Challenge Program.

16. PERSONNEL BOARD

	2002-03	2003-04
General Fund	578,500	578,500
Restricted Funds	1,700	1,700
TOTAL	580,200	580,200

17. LOCAL GOVERNMENT

	2001-02	2002-03	2003-04
General Fund		10,008,100	10,840,000
Restricted Funds		785,800	652,400
Federal Funds	7,900,000	52,433,900	52,430,800
TOTAL	7,900,000	63,227,800	63,923,200

Included in the above General Fund appropriation is $568,000 in fiscal year 2003-2004 for debt service.

18. SPECIAL FUNDS

a. Local Government Economic Assistance Fund

	2002-03	2003-04
General Fund	37,639,000	37,993,200

b. Local Government Economic Development Fund

	2002-03	2003-04
General Fund	46,118,300	47,499,200

The above appropriations from the General Fund are based on the official estimate presented by the Office of State Budget Director for severance tax collections during the biennium, distributed in accordance with KRS 42.450 to 42.495. Notwithstanding provisions set forth in KRS 42.4582, moneys transferred from the General Fund to the Local Government Economic Development Fund shall be calculated at the percentage of forty-six and one half percent (46.5%) effective July 1, 2002. Moneys transferred from the General Fund to the Local Government Economic Development Fund shall be calculated at fifty percent (50%) effective July 1, 2003. If actual severance tax receipts are different from the official estimate, the amount to be allotted to the Local Government Economic Assistance Fund shall be determined in accordance with KRS 42.450 to 42.495 and the amount to be allotted to the Local Government Economic Development Fund shall continue to be calculated at the percentages specified in this paragraph and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4585, the quarterly calculation and transfer of the funds pursuant to KRS 42.4585 shall be made only after each quarterly installment of the annual appropriation of $1,000,000 in fiscal year 2002-2003 and $1,000,000 in fiscal year 2003-2004 has been credited to the Trover Clinic Grant within the Department for Local Government.

Notwithstanding KRS 42.4582, the quarterly calculation and transfer of moneys from the General Fund to the Local Government Economic Development Fund pursuant to KRS 42.4582 shall be made only after each quarterly installment of the annual appropriation of $1,407,100 in fiscal year 2002-2003 and $1,480,200 in fiscal year 2003-2004 has been credited to the Osteopathic Scholarship program within the Kentucky Higher Education Assistance Authority.

Notwithstanding KRS 42.4585, the amount transferred annually from the Local Government Economic Development Fund into the Local Government Economic Assistance Fund under the provisions of KRS 42.4585 shall not be less than an amount equal to fourteen percent (14%) in fiscal year 2002-2003 and fifteen percent (15%) in fiscal year 2003-2004 of the severance and processing taxes on coal collected annually and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $472,000 in fiscal year 2002-2003 and $472,000 in fiscal year 2003-2004 has been transferred as Restricted Funds to the East Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $467,000 in fiscal year 2002-2003 and $467,000 in fiscal year 2003-2004 has been transferred as Restricted Funds to the West Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $770,500 in fiscal year 2002-2003 and $783,600 in fiscal year 2003-2004, has been transferred as Restricted Funds to the Department for Coal County Development within the Cabinet for Economic Development.

Notwithstanding KRS 42.4592, the quarterly calculation for the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $550,000 in fiscal year 2002-2003 and $550,000 in fiscal year 2003-2004 has been credited to the Kentucky Appalachian Commission and Appalachian Regional Commission related expenditures.

Notwithstanding KRS 42.4586, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $960,800 in fiscal year 2002-2003 and $960,800 in fiscal year 2003-2004 has been credited to the Secondary Wood Products Development Fund. The Kentucky Wood Products Competitive Corporation shall emphasize job creation in the Eastern and Western Kentucky Coal Regions.

Notwithstanding KRS 342.122(1)(c), $19,000,000 from the General Fund shall not be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission in fiscal year 2002-2003 and fiscal year 2003-2004.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $100,000 in fiscal year 2002-2003 and $100,000 in fiscal year 2003-2004 has been credited to the Kentucky Coal Coalition from funds available to the Department for Local Government.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of money to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $5,000,000 in each year of the biennium that shall be reserved for the high-tech construction/investment pools created under KRS 154.12-278. Notwithstanding KRS 42.4588(4) and KRS 42.4588(5), these funds will be used for projects and programs recommended by the Office of the Commissioner for the New Economy in the Cabinet for Economic Development and approved by the Commissioner of the Department for Coal County Development in the Cabinet for Economic Development. The projects identified are limited to research and development, commercialization or work-related initiatives consistent with the character of the high-tech construction and high-tech investment pools administered by the Office for the New Economy. Investment and construction pool projects must be targeted solely to Kentucky's Local Government Economic Development Fund eligible counties.

Notwithstanding KRS 42.4588, the Cabinet for Economic Development is authorized to provide $1,000,000 for the East Kentucky Development Alliance to support a revolving loan fund and $2,000,000 for the Appalachia Bus program from the Local Government Economic Development Fund Multi-County Fund, effective fiscal year 2002-2003.

Pursuant to the authority given in KRS 42.485, the continuing appropriation amount from fiscal year 2001-2002 to fiscal year 2002-2003 and from fiscal year 2002-2003 to fiscal year 2003-2004 shall equal the dollar amount that the Local Government Economic Development and Local Government Economic Assistance Funds have the statutory authority to expend.

c. Area Development Fund

	2002-03	2003-04
General Fund	1,357,700	1,206,200

Notwithstanding KRS 48.185, funds appropriated from the General Fund for the Area Development Fund shall be limited to these amounts.

TOTAL - SPECIAL FUNDS

	2002-03	2003-04
General Fund	85,115,000	86,698,600

19. COMMISSION ON HUMAN RIGHTS

	2002-03	2003-04
General Fund	1,978,200	2,078,000
Restricted Funds	24,000	24,000
Federal Funds	170,800	170,800
TOTAL	2,173,000	2,272,800

20. COMMISSION ON WOMEN

	2002-03	2003-04
General Fund	269,900	269,900
Restricted Funds		4,600
Federal Funds		200
TOTAL	269,900	274,700

21. COMMISSION ON SMALL BUSINESS ADVOCACY

	2002-03	2003-04
General Fund	75,000	75,000
Restricted Funds	45,000	45,000
TOTAL	120,000	120,000

22. KENTUCKY RETIREMENT SYSTEMS

	2002-03	2003-04
Restricted Funds	14,980,500	15,847,500

23. REGISTRY OF ELECTION FINANCE

	2002-03	2003-04
General Fund	1,475,200	1,475,200
Restricted Funds	202,800	203,200
TOTAL	1,678,000	1,678,400

Notwithstanding the provisions of KRS 121A.020, 121A.030, 121A.040, 121A.060, 121A.080, 118.255(3), 121A.015(5), and 121.150, no funds shall be appropriated to or received into the election campaign fund established by KRS 121A.020, and the Registry of Election Finance shall make no transfer of funds to any slate of candidates from the election campaign fund. Notwithstanding the provisions of KRS 121A.030(5), slates of candidates may accept contributions within the last twenty-eight (28) days immediately preceding a primary or general election and during the fourteen (14) days immediately preceding a runoff primary, and notwithstanding the provisions of KRS 121A.020(5), all contributions to slates of candidates made within the last twenty-eight (28) days immediately preceding a primary or general election and during the fourteen (14) days immediately preceding a runoff primary shall be reported to the Registry of Election Finance within twenty-four hours of receipt. All other statutes contained in KRS Chapter 121A shall remain in effect for all slates of candidates, except for KRS 121A.080(6) which shall not apply, and slated candidates shall be governed instead by KRS 121.180(10).

24. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

a. Board of Accountancy

	2002-03	2003-04
Restricted Funds	752,700	782,100

b. Alcohol and Drug Counselors

	2002-03	2003-04
Restricted Funds	62,000	65,000

c. Board of Architects

	2002-03	2003-04
Restricted Funds	272,000	258,300

d. Board of Art Therapists

	2002-03	2003-04
Restricted Funds	11,300	11,400

e. Kentucky Athletic Commission

	2002-03	2003-04
Restricted Funds	158,500	167,300

f. Board of Auctioneers

	2002-03	2003-04
Restricted Funds	360,200	370,500

g. Board of Barbering

	2002-03	2003-04
Restricted Funds	225,600	231,500

Notwithstanding KRS 317.430, members of the Board of Barbering may receive a compensation of one hundred dollars ($100) per day for each day of attendance at a meeting of the Board, and shall be reimbursed for necessary traveling expenses.

h. Board of Chiropractic Examiners

	2002-03	2003-04
Restricted Funds	182,800	191,400

i. Board of Dentistry

	2002-03	2003-04
Restricted Funds	474,400	504,400

j. Board of Dietitians and Nutritionists

	2002-03	2003-04
Restricted Funds	67,900	71,500

k. Board of Embalmers and Funeral Directors

	2002-03	2003-04
Restricted Funds	240,400	249,100

l. Board of Engineers and Land Surveyors

	2002-03	2003-04
Restricted Funds	1,291,800	1,354,100

m. Board of Fee-Based Pastoral Counselors

	2002-03	2003-04
Restricted Funds	6,000	6,000

n. Board of Geologists

	2002-03	2003-04
Restricted Funds	133,000	135,000

o. Board of Hairdressers and Cosmetologists

	2002-03	2003-04
Restricted Funds	998,900	1,105,000

p. Board of Hearing Instrument Specialists

	2002-03	2003-04
Restricted Funds	50,700	52,700

q. Board of Interpreters for Deaf and Hard of Hearing

	2002-03	2003-04
Restricted Funds	25,000	25,000

r. Board of Landscape Architects

	2002-03	2003-04
Restricted Funds	55,300	57,800

s. Board of Marriage and Family

	2002-03	2003-04
Restricted Funds	79,200	83,200

t. Board of Medical Licensure

	2002-03	2003-04
Restricted Funds	1,992,500	2,099,900

u. Board of Nursing

	2002-03	2003-04
Restricted Funds	4,230,500	4,268,900

Included in the above Restricted Funds appropriation is $175,000 in each fiscal year for the Nursing Incentive Scholarship Program.

v. Nursing Home Administrators Licensure Board

	2002-03	2003-04
Restricted Funds	69,000	76,200

w. Board of Occupational Therapy

	2002-03	2003-04
Restricted Funds	76,600	86,000

x. Board of Ophthalmic Dispensers

	2002-03	2003-04

Restricted Funds	57,600	62,900

y. Board of Optometric Examiners

	2002-03	2003-04
Restricted Funds	152,400	157,000

z. Board of Pharmacy

	2002-03	2003-04
Restricted Funds	835,000	876,000

aa. Board of Physical Therapy

	2002-03	2003-04
Restricted Funds	263,400	280,000

ab. Board of Podiatry

	2002-03	2003-04
Restricted Funds	14,500	15,500

ac. Board of Professional Counselors

	2002-03	2003-04
Restricted Funds	49,700	51,700

ad. Board of Proprietary Education

	2002-03	2003-04
Restricted Funds	123,000	134,300

ae. Board of Psychology

	2002-03	2003-04
Restricted Funds	169,600	176,100

af. Real Estate Appraisers Board

	2002-03	2003-04
Restricted Funds	614,900	631,900

ag. Real Estate Commission

	2002-03	2003-04
Restricted Funds	2,003,100	2,302,900

Included in the above Restricted Funds appropriation is $966,700 in fiscal year 2002-2003 and $1,224,000 in fiscal year 2003-2004 for Real Estate Education and Recovery.

ah. Board of Respiratory Care

	2002-03	2003-04
Restricted Funds	182,700	188,600

ai. Board of Social Workers

	2002-03	2003-04
Restricted Funds	141,300	145,300

aj. Board of Speech Pathologists and Audiologists

	2002-03	2003-04
Restricted Funds	83,000	86,000

ak. Board of Veterinary Examiners

	2002-03	2003-04
Restricted Funds	228,300	237,800

TOTAL - OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

	2002-03	2003-04
Restricted Funds	16,734,800	17,598,300

25. EDUCATION PROFESSIONAL STANDARDS BOARD

	2002-03	2003-04
General Fund	10,433,800	11,097,000
Restricted Funds	1,378,500	829,600

Federal Funds	122,200	122,200
TOTAL	11,934,500	12,048,800

Notwithstanding KRS 161.134, $800,000 in fiscal year 2002-2003 and $800,000 in fiscal year 2003-2004 is provided for National Board of Teaching Standards Certification from the General Fund.

Notwithstanding KRS 161.028(1)(o) and (q), the above Restricted Funds appropriation may be used for the operations of the Board.

26. BOARD OF EMERGENCY MEDICAL SERVICES

	2002-03	2003-04
General Fund	2,571,200	2,571,200
Restricted Funds	168,300	171,700
Federal Fund	296,800	100,000
TOTAL	3,036,300	2,842,900

27. GOVERNMENTAL SERVICES CENTER

	2002-03	2003-04
Restricted Funds	1,462,000	1,516,000

28. EXECUTIVE BRANCH ETHICS COMMISSION

	2002-03	2003-04
General Fund	335,900	340,500
Restricted Funds	300	2,400
TOTAL	336,200	342,900

29. MISCELLANEOUS APPROPRIATIONS

a. Judgments

	2002-03	2003-04
General Fund	-0-	-0-

The above appropriation is for the payment of judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board and where applicable, shall be subject to the provisions of KRS Chapter 45, and for the payment of medical malpractice judgments against the University of Kentucky and the University of Louisville in accordance with KRS 164.941 and 164.892. Notwithstanding KRS 45.229, any remaining appropriation in the Judgments account at the end of fiscal year 2001-2002 or fiscal year 2002-2003 shall not lapse but shall be carried forward into fiscal years 2002-2003 and 2003-2004, respectively.

b. Attorney General Expense

	2002-03	2003-04
General Fund	225,000	225,000

c. Board of Claims Awards

	2002-03	2003-04
General Fund	600,000	600,000

Funds are appropriated from the General Fund for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund. However, awards under $2,000, in cases where the operating agency admits negligence, shall be paid from funds available for the operations of the agency.

d. Guardian Ad Litem

	2002-03	2003-04
General Fund	2,500,000	2,500,000

Included in the above appropriation is funding for fees to be paid to the guardian ad litem appointed by the court pursuant to KRS 311.732. The fee shall be fixed by the court and shall not exceed $500.

General Fund support totaling $500,000 in fiscal year 2001-2002 that was appropriated by the 2000 General Assembly (2000 Ky. Acts, ch. 549, Part I, Operating Budget, A. Government Operations, Budget Unit 22., Miscellaneous Appropriations, item d., guardian ad litem) shall lapse to the credit of the General Fund.

e. Prior Year Claims

	2002-03	2003-04
General Fund	400,000	400,000

f. Unredeemed Checks Refunded

	2002-03	2003-04
General Fund	1,000,000	1,000,000

Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with KRS 41.370.

g. Involuntary Commitments ICF/MR

	2002-03	2003-04
General Fund	60,000	60,000

h. Frankfort in Lieu of Taxes

	2002-03	2003-04
General Fund	195,000	195,000

i. Frankfort Cemetery

	2002-03	2003-04
General Fund	2,500	2,500

j. Police Officers and Firefighters--Life Insurance

	2002-03	2003-04
General Fund	250,000	250,000

Funds are appropriated for payment of benefits for state and local police officers and firefighters in accordance with KRS 61.315.

k. Master Commissioners--Employers Retirement

	2002-03	2003-04
General Fund	200,000	200,000

l. Master Commissioner--Social Security

	2002-03	2003-04
General Fund	313,000	343,000

m. Workers' Compensation

	2002-03	2003-04
General Fund	502,000	532,000

Funds are appropriated for workers' compensation premiums for fee officers in counties over 70,000 in population.

n. Medical Malpractice Liability Insurance Reimbursements

	2002-03	2003-04
General Fund	60,000	60,000

o. Blanket Employee Bonds

	2002-03	2003-04
General Fund	100,000	100,000

TOTAL - MISCELLANEOUS APPROPRIATIONS

	2002-03	2003-04
General Fund	6,407,500	6,467,500

Included in the above appropriations is $0 in fiscal year 2002-2003 and $0 in fiscal year 2003-2004 for refunding money paid into the State Treasury, which may later be determined not to be a lawful collection by the state. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and with the approval of the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

Funds required to pay the costs of items included within the Miscellaneous Appropriations category are appropriated, and any required expenditure over the above amounts is to be paid first from the General Fund Surplus Account (KRS 48.700) if available or from any available balance in either the Judgments budget unit appropriation or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

30. KENTUCKY RIVER AUTHORITY

Budget Units

	2002-03	2003-04

General Fund	379,000	379,000
Restricted Funds	3,266,000	3,698,000
TOTAL	3,645,000	4,077,000

TOTAL - GOVERNMENT OPERATIONS

	2001-02	2002-03	2003-04
General Fund (Tobacco)		52,451,200	43,859,000
General Fund	30,000	253,390,500	266,783,300
Restricted Funds		159,666,300	163,615,200
Federal Funds	7,912,000	128,404,600	127,337,000
Road Funds		125,000	125,000
TOTAL	7,942,000	594,037,600	601,719,500

B. CABINET FOR ECONOMIC DEVELOPMENT

31. CABINET FOR ECONOMIC DEVELOPMENT

Budget Units

a. Office of the Secretary

	2002-03	2003-04
General Fund	1,392,700	1,417,100
Restricted Funds	4,575,200	4,612,800
TOTAL	5,967,900	6,029,900

Included in the above Restricted Funds appropriations is $472,000 in fiscal year 2002-2003 and $472,000 in fiscal year 2003-2004 for the East Kentucky Jobs Creation Corporation and $467,000 in fiscal year 2002-2003 and $467,000 in fiscal year 2003-2004 for the West Kentucky Jobs Creation Corporation. Also included in the above Restricted Funds appropriations is $770,500 in fiscal year 2002-2003 and $783,600 in fiscal year 2003-2004 for the Coal County Development Office. Notwithstanding KRS 42.4592, the Restricted Funds appropriations for the East Kentucky Corporation, the West Kentucky Corporation, and the Coal County Development Office shall be funded from the Local Government Economic Development Fund prior to any other statutory distribution from the Local Government Economic Development Fund.

Included in the above Restricted Funds appropriation is $300,000 in fiscal year 2002-2003 and $300,000 in fiscal year 2003-2004 for the Kentucky Technology Service Grant administered by the Kentucky Manufacturing Assistance Center.

Included in the above Restricted Funds appropriation is $420,800 in fiscal year 2002-2003 and $420,800 in fiscal year 2003-2004 for the Louisville Waterfront Development Corporation.

Included in the above appropriation are Restricted Funds in the amount of $2,144,900 in fiscal year 2002-2003 and $2,169,400 in fiscal year 2003-2004 for the Office of the Commissioner for the New Economy, including up to $1,300,000 in each year for Innovation and Commercialization Centers. Notwithstanding KRS 164.6019, 164.6021, 164.6027, 164.6029, 164.6035, 164.6037, and 164.6043, the unobligated balance of fiscal year 2001-2002 appropriations from the Council on Postsecondary Education, Science and Technology Trust Fund shall be transferred to the Office of the Commissioner for the New Economy to provide Restricted Funds appropriation for fiscal year 2002-2003 totaling $1,969,400 and totaling $1,000,000 in fiscal year 2003-2004.

b. Administration and Program Support

	2002-03	2003-04
General Fund	2,179,900	2,167,500
Restricted Funds	29,800	45,900
TOTAL	2,209,700	2,213,400

c. Business Development

	2002-03	2003-04
General Fund	2,517,900	2,541,600
Restricted Funds	248,800	290,600
TOTAL	2,766,700	2,832,200

d. Financial Incentives

	2001-02	2002-03	2003-04
General Fund		3,343,800	3,371,900
Restricted Funds	351,500	2,182,700	2,227,300
TOTAL	351,500	5,526,500	5,599,200

The General Fund appropriation for fiscal year 2001-2002 and for fiscal year 2002-2003 for the Bluegrass State Skills Corporation shall be continued and not lapse to the General Fund Surplus Account, notwithstanding KRS 45.229.

Notwithstanding KRS 154.12-207, the Secretary is directed to take such action as may be necessary to execute contractual agreements for designated skills training and education projects for which funds have been specifically appropriated.

No commitment for employee training shall be made beyond the ability of the Cabinet to fund the project within the appropriation for the current biennium.

Balances remaining in the Special Revenue Fund accounts after all appropriations authorized in this bill are funded shall lapse to the Deferred Maintenance Account at the end of each fiscal year.

The Bluegrass State Skills Corporation shall submit a quarterly financial report to the Governor's Office for Policy and Management, the Legislative Research Commission, and the Interim Joint Committee on Appropriations and Revenue.

Notwithstanding KRS 154.12-278 by which the Kentucky Economic Development Finance Authority (KEDFA) authorized a grant of up to $1,300,000 in fiscal year 2001-2002 to the Kentucky Science and Technology Corporation, a maximum of $900,000 of the authorized amount shall be conveyed for expenditure. The remaining funding shall be retained and shall be appropriated to the Office of the Commissioner for the New Economy to be used to fund Innovation and Commercialization grants.

e. Community Development

	2002-03	2003-04
General Fund	2,855,900	2,956,000
Restricted Funds	440,100	454,000
Federal Funds	157,100	155,400
TOTAL	3,453,100	3,565,400

TOTAL - CABINET FOR ECONOMIC DEVELOPMENT

	2001-02	2002-03	2003-04
General Fund		12,290,200	12,454,100
Restricted Funds	351,500	7,476,600	7,630,600
Federal Funds		157,100	155,400
TOTAL	351,500	19,923,900	20,240,100

C. EDUCATION

32. EDUCATION

Budget Units

a. Support Education Excellence in Kentucky (SEEK) Program

	2002-03	2003-04
General Fund	2,266,902,600	2,309,909,300

Accumulated earnings for the Common School Fund shall be transferred in each fiscal year to the Support Education Excellence in Kentucky program.

The above appropriations include $1,594,373,800 in fiscal year 2002-2003 and $1,628,402,900 in fiscal year 2003-2004 for the base SEEK program as defined by KRS 157.360. Funds appropriated to the Support Education Excellence in Kentucky program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. Included in the appropriation for base SEEK is $186,083,500 in fiscal year 2002-2003 and $191,222,300 in fiscal year 2003-2004 for pupil transportation, notwithstanding KRS 157.360(2)(c).

Included in the above appropriation is $134,092,900 in fiscal year 2002-2003 and $130,529,500 in fiscal year 2003-2004 for the Tier I component as established by KRS 157.440.

Included in the above appropriation is $2,416,900 in fiscal year 2002-2003 and $2,416,900 in fiscal year 2003-2004 for vocational transportation.

Included in the above appropriation is $21,452,600 in fiscal year 2002-2003 and $21,452,600 in fiscal year 2003-2004 to provide secondary vocational education in state-operated vocational schools.

Included in the above appropriation is $57,258,000 in fiscal year 2002-2003 and $53,833,700 in fiscal year 2003-2004 to provide facilities equalization funding pursuant to the provisions of KRS 157.620 and KRS 157.440.

Included in the above appropriation is $259,363,900 in fiscal year 2002-2003 and $270,190,000 in fiscal year 2003-2004 to enable local school districts to provide the employer match for qualified employees as provided for by KRS 161.550.

Included in the above appropriation is $600,000 in each fiscal year to assist local school districts in providing salary supplements for teachers attaining certification by the National Board of Professional Teaching Standards, notwithstanding the provisions of KRS 157.395.

Included in the above appropriation is $11,261,600 in fiscal year 2002-2003 and $11,261,600 in fiscal year 2003-2004 to support a one and six-tenths percent (1.6%) cost-of-living adjustment for classified employees of local school districts in fiscal year 2002-2003. These moneys shall not be allocated to local public school districts in accordance with the provisions of KRS 157.310 to KRS 157.440 or 702 KAR 3:270.

b. Executive Policy and Management

	2002-03	2003-04
General Fund	715,400	735,100

c. Operations and Support Services

	2002-03	2003-04
General Fund	11,542,700	12,055,500
Restricted Funds	2,187,900	2,264,400
Federal Funds	562,500	573,800
TOTAL	14,293,100	14,893,700

Included in the above General Fund appropriation is $2,503,800 in fiscal year 2002-2003 and $2,553,900 in fiscal year 2003-2004 to enable the Department of Education to provide the employer match for the teacher retirement contribution for qualified employees as provided by KRS 161.550.

Included in the above General Fund appropriation in fiscal year 2003-2004 is $232,000 to provide for debt service for Bond Funds totaling $1,517,000 for capital projects relating to the Kentucky School for the Deaf and the Kentucky School for the Blind as provided in Part II, Capital Projects Budget in this Act.

d. Learning and Results Services

	2002-03	2003-04
General Fund	568,377,000	612,045,200
Restricted Funds	5,850,700	5,851,200
Federal Funds	491,060,800	497,995,000
TOTAL	1,065,288,500	1,115,891,400

Included in the above General Fund appropriation is $15,000,000 in fiscal year 2002-2003 and $20,000,000 in fiscal year 2003-2004 for the education technology escrow account.

Included in the above General Fund appropriation is $10,800,000 in fiscal year 2002-2003 and $10,800,000 in fiscal year 2003-2004 for reimbursement to local school districts for the education of state agency children as defined by KRS 158.135.

Included in the above General Fund appropriation is $277,397,000 in fiscal year 2002-2003 and $309,119,400 in fiscal year 2003-2004 to provide health insurance and life insurance coverage for employees of local school districts.

Included in the above General Fund appropriation is $3,000,000 in fiscal year 2002-2003 and $10,049,500 in fiscal year 2003-2004 for the school rewards escrow account.

Included in the above General Fund appropriation is $5,421,100 in fiscal year 2002-2003 and $5,659,500 in fiscal year 2003-2004 for the Kentucky School for the Blind, and $9,139,800 in fiscal year 2002-2003 and $9,559,300 in fiscal year 2003-2004 for the Kentucky School for the Deaf.

Included in the above General Fund appropriation is $1,750,000 in fiscal year 2002-03 and $1,750,000 in fiscal year 2003-04 to support the Community Education program.

TOTAL - EDUCATION

	2002-03	2003-04
General Fund	2,847,537,700	2,934,745,100
Restricted Funds	8,038,600	8,115,600
Federal Funds	491,623,300	498,568,800
TOTAL	3,347,199,600	3,441,429,500

D. EDUCATION, ARTS AND HUMANITIES CABINET

Budget Units

33. OFFICE OF THE SECRETARY

	2002-03	2003-04
General Fund	3,240,800	3,270,800
Restricted Funds	36,400	36,700
TOTAL	3,277,200	3,307,500

Included in the above General Fund appropriation is $1,470,900 in each fiscal year for the Governor's Scholars Program.

Included in the above General Fund appropriation is $405,000 in fiscal year 2002-2003 and $405,000 in fiscal year 2003-2004 for the Governor's School for the Arts.

Up to $30,000 in General Fund support each year is available to be transferred to the Environmental Education Council for additional support.

34. KENTUCKY ARTS COUNCIL

	2002-03	2003-04
General Fund	4,644,600	4,693,700
Restricted Funds	713,800	612,500
Federal Funds	624,800	621,100
TOTAL	5,983,200	5,927,300

35. TEACHERS' RETIREMENT SYSTEM

	2002-03	2003-04
General Fund	90,113,200	97,489,000
Restricted Funds	7,330,100	7,571,900
TOTAL	97,443,300	105,060,900

General Fund moneys are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 to 161.716.

The above General Fund appropriation, in conjunction with those included elsewhere within this Act for the Teachers' Retirement System, is based upon estimated funds needed to meet the requirements of KRS 161.220 to 161.716. If these combined General Fund appropriations are in excess of these requirements, the excess funds shall lapse to the credit of the General Fund.

In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent (4%) of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund moneys are provided in fiscal year 2002-2003 or fiscal year 2003-2004 for the cost of administration.

Included in the above General Fund appropriation is $3,668,400 in fiscal year 2002-2003 and $7,636,700 in fiscal year 2003-2004 to provide the cost of amortizing the requirements of KRS 161.155 (sick leave) for members retiring during the 2002-2004 biennium.

Included in the above General Fund appropriation is $694,800 in fiscal year 2002-2003 and $1,451,800 in fiscal year 2003-2004 to increase minimum value payments for members qualifying under provisions of KRS 161.620(3).

Included in the above General Fund appropriation is $1,179,900 in fiscal year 2003-2004 to make up for an underappropriation during fiscal year 2000-2001 under the provisions of KRS 161.550.

Included in the above General Fund appropriation is $4,406,000 in fiscal year 2002-03 and $9,213,400 in fiscal year 2003-04 to provide, when combined with the annual one and one-half percent (1.5%) retirement allowance increase as provided for under KRS 161.620, a total increase in retirement allowances of eligible system members and beneficiaries of two and nine-tenths percent (2.9%) in fiscal year 2002-2003 and an additional three percent (3.0%) in fiscal year 2003-2004.

36. SCHOOL FACILITIES CONSTRUCTION COMMISSION

	2002-03	2003-04
General Fund	77,121,400	88,124,300

Included in the above General Fund appropriation is $76,853,100 in fiscal year 2002-2003 and $77,476,500 in fiscal year 2003-2004 for debt service for bonds previously issued.

Included in the above General Fund appropriation is $10,397,500 in fiscal year 2003-2004 for debt service for previously authorized bonds and new bonding authority totaling $14,400,000 in fiscal year 2003-2004 to be provided to public school district number 015 and new bonding authority totaling $7,700,000 to be provided to public school district number 165. The above debt service funding level includes $8,500,000 for previously authorized bonds; $1,235,200 for public school district number 015 for new bonding authority; and $662,300 for public school district number 165 for new bonding authority.

Notwithstanding any provisions of KRS 157.611 to 157.665, the School Facilities Construction Commission is authorized to make an additional $100,000,000 in offers of assistance during the 2002-2004 biennium in anticipation of debt service availability during the 2004-2006 biennium. No bonded indebtedness based on the above amount is to be incurred during the 2002-2004 biennium.

37. DEAF AND HARD OF HEARING

	2002-03	2003-04
General Fund	909,100	881,100
Restricted Funds	200,000	200,000

TOTAL	1,109,100	1,081,100

38. KENTUCKY HERITAGE COUNCIL

	2002-03	2003-04
General Fund	945,700	945,700
Restricted Funds	234,600	227,500
Federal Funds	766,100	766,100
TOTAL	1,946,400	1,939,300

39. KENTUCKY EDUCATIONAL TELEVISION

	2002-03	2003-04
General Fund	14,936,400	15,389,300
Restricted Funds	1,106,400	1,075,700
Federal Funds	700,000	700,000
TOTAL	16,742,800	17,165,000

40. KENTUCKY HISTORICAL SOCIETY

	2002-03	2003-04
General Fund	6,145,000	6,377,500
Restricted Funds	572,200	571,400
Federal Funds	95,900	42,500
TOTAL	6,813,100	6,991,400

41. LIBRARIES AND ARCHIVES

a. General Operations

	2002-03	2003-04
General Fund	7,451,100	7,462,600
Restricted Funds	1,667,200	1,830,800
Federal Funds	1,807,600	1,836,800
TOTAL	10,925,900	11,130,200

b. Direct Local Aid

	2002-03	2003-04
General Fund	5,966,700	5,980,200
Restricted Funds	9,000	9,000
Federal Funds	424,000	424,000
TOTAL	6,399,700	6,413,200

Included in the above General Fund appropriation is $3,669,500 in each fiscal year to award per capita grants at the rate of seventy-three cents ($.73), notwithstanding KRS 171.201.

TOTAL - LIBRARIES AND ARCHIVES

	2002-03	2003-04
General Fund	13,417,800	13,442,800
Restricted Funds	1,676,200	1,839,800
Federal Funds	2,231,600	2,260,800
TOTAL	17,325,600	17,543,400

42. KENTUCKY CENTER FOR THE ARTS

	2002-03	2003-04
General Fund	619,800	619,800

43. ENVIRONMENTAL EDUCATION COUNCIL

	2002-03	2003-04
Restricted Funds	150,000	150,000

TOTAL - EDUCATION, ARTS, AND HUMANITIES CABINET

	2002-03	2003-04
General Fund	212,093,800	231,234,000

Restricted Funds	12,019,700	12,285,500
Federal Funds	4,418,400	4,390,500
TOTAL	228,531,900	247,910,000

E. CABINET FOR FAMILIES AND CHILDREN

Budget Units

44. COMMUNITY BASED SERVICES

	2002-03	2003-04
General Fund (Tobacco)	7,262,800	3,581,300
General Fund	280,666,700	279,264,400
Restricted Funds	101,883,400	123,639,600
Federal Funds	468,549,000	476,832,800
TOTAL	858,361,900	883,318,100

The Department for Community Based Services shall reimburse citizen members of the Public Assistance Appeals Board an amount not to exceed $75 per day plus travel expenses.

45. ADMINISTRATION SERVICES

	2002-03	2003-04
General Fund	27,660,400	29,162,700
Restricted Funds	4,390,100	4,501,800
Federal Funds	37,077,300	38,458,800
TOTAL	69,127,800	72,123,300

46. DISABILITY DETERMINATIONS

	2002-03	2003-04
Restricted Funds	62,700	65,800
Federal Funds	40,129,800	42,376,900
TOTAL	40,192,500	42,442,700

TOTAL - CABINET FOR FAMILIES AND CHILDREN

	2002-03	2003-04
General Fund (Tobacco)	7,262,800	3,581,300
General Fund	308,327,100	308,427,100
Restricted Funds	106,336,200	128,207,200
Federal Funds	545,756,100	557,668,500
TOTAL	967,682,200	997,884,100

F. FINANCE AND ADMINISTRATION CABINET

47. FINANCE AND ADMINISTRATION CABINET

Budget Units

a. General Administration

	2002-03	2003-04
General Fund	5,988,000	6,258,000
Restricted Funds	2,737,000	2,870,000
TOTAL	8,725,000	9,128,000

Included in the above General Fund appropriation is $200,000 in fiscal year 2002-2003 and $200,000 in fiscal year 2003-2004 for the Affordable Housing Trust Fund which shall be matched equally from the Kentucky Housing Corporation Housing Assistance Fund.

b. Office of the Controller

	2002-03	2003-04
General Fund	6,098,000	6,193,000
Restricted Funds	396,000	414,000
Federal Funds	4,000,000	4,000,000
TOTAL	10,494,000	10,607,000

c. Debt Service

	2002-03	2003-04
General Fund (Tobacco)	6,112,000	6,116,000
General Fund	249,038,000	247,772,000
Road Fund	3,668,000	3,664,000
TOTAL	258,818,000	257,552,000

d. Administration

	2002-03	2003-04
General Fund	3,637,000	3,513,000
Restricted Funds	9,081,000	9,567,000
Road Fund	283,000	283,000
TOTAL	13,001,000	13,363,000

e. Facilities Management

	2002-03	2003-04
General Fund	8,086,000	8,064,000
Restricted Funds	25,116,000	25,821,000
TOTAL	33,202,000	33,885,000

f. County Costs

	2002-03	2003-04
General Fund	22,828,000	22,828,000
Restricted Funds	1,425,000	1,425,000
TOTAL	24,253,000	24,253,000

Included in the above General Fund appropriation is $5,431,000 in fiscal year 2002-2003 and $5,431,000 in fiscal year 2003-2004 for base court revenue. Funds required to pay county costs other than base court revenue funded by the General Fund are appropriated and additional funds may be allotted from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) by the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

General Fund support totaling $250,000 in fiscal year 2001-2002 that was appropriated by the 2000 General Assembly (2000 Ky. Acts, ch. 549, Part I, Operating Budget, F. Finance and Administration Cabinet, Budget Unit e. County Costs) for the Jury Fund shall lapse to the credit of the General Fund.

g. County Fees

	2002-03	2003-04
Restricted Funds	77,645,600	80,760,800

For the purposes of KRS 64.345, Campbell County, Daviess County, Fayette County, Hardin County, Jefferson County, Kenton County, Pike County and Warren County shall be considered to have a population of seventy thousand (70,000) or over.

TOTAL - FINANCE AND ADMINISTRATION CABINET

	2002-03	2003-04
General Fund (Tobacco)	6,112,000	6,116,000
General Fund	295,675,000	294,628,000
Restricted Funds	116,400,600	120,857,800
Federal Funds	4,000,000	4,000,000
Road Fund	3,951,000	3,947,000
TOTAL	426,138,600	429,548,800

G. CABINET FOR HEALTH SERVICES

Budget Units

48. MEDICAID SERVICES

a. Administration

	2002-03	2003-04
General Fund	17,848,000	18,028,200
Restricted Funds	20,624,400	20,606,800

Federal Funds	44,009,800	44,542,700
TOTAL	82,482,200	83,177,700

If any portion of the General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, the amount may be used for Medicaid Benefits, in accordance with statutes governing the functions and activities of the Department for Medicaid Services. In no instance shall these excess funds be used without prior written approval of the State Budget Director to:

(1) Establish a new program;
(2) Expand the services of an existing program; or
(3) Increase rates or payment levels in an existing program.

Any transfer authorized under this section shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director.

b. Benefits

	2002-03	2003-04
General Fund	752,373,700	757,093,500
Restricted Funds	200,011,300	188,448,600
Federal Funds	2,245,464,700	2,228,574,600
TOTAL	3,197,849,700	3,174,116,700

These funds are to be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Medicaid Services.

Included in the above appropriation is $1,200,000 in General Fund support and $4,800,000 Federal Funds in each fiscal year to support the Breast and Cervical Cancer Treatment Program.

Any General Fund appropriation unexpended in fiscal years 2001-2002 and 2002-2003 shall not lapse, but shall be carried forward into the next fiscal year, notwithstanding KRS 45.229.

49. PUBLIC HEALTH

	2002-03	2003-04
General Fund (Tobacco)	21,738,800	20,882,800
General Fund	56,201,300	56,601,300
Restricted Funds	65,849,000	65,914,100
Federal Funds	127,620,500	127,620,500
TOTAL	271,409,600	271,018,700

Included in the above appropriation is $50,000 in General Fund support in each fiscal year to support hospital-based hospice services in Louisville, Kentucky.

Notwithstanding any other statutory provisions to the contrary, the Secretary shall promulgate such administrative regulations as may be required to prescribe such user fees as are necessary to support the Restricted Funds appropriations above.

50. MENTAL HEALTH/MENTAL RETARDATION

	2002-03	2003-04
General Fund (Tobacco)	1,000,000	1,000,000
General Fund	168,255,000	171,611,900
Restricted Funds	190,690,900	206,415,200
Federal Funds	41,295,100	41,355,900
TOTAL	401,241,000	420,383,000

51. CHILDREN WITH SPECIAL HEALTH CARE NEEDS

	2002-03	2003-04
General Fund (Tobacco)	1,600,000	1,600,000
General Fund	16,709,500	16,709,500
Restricted Funds	22,089,000	23,262,900
Federal Funds	10,053,700	9,822,800
TOTAL	50,452,200	51,395,200

52. CERTIFICATE OF NEED

	2002-03	2003-04

General Fund	131,500	134,100
Restricted Funds	234,200	251,100
TOTAL	365,700	385,200

The Secretary shall be authorized to promulgate such administrative regulations as may be required to prescribe user fee amounts which are reflected in the Restricted Funds appropriations above.

53. AGING SERVICES

	2002-03	2003-04
General Fund	26,421,800	26,821,800
Restricted Funds	760,400	761,600
Federal Funds	18,885,300	18,885,300
TOTAL	46,067,500	46,468,700

54. ADMINISTRATIVE SUPPORT

	2002-03	2003-04
General Fund	9,358,000	9,355,400
Restricted Funds	8,154,000	8,806,700
Federal Funds	12,729,200	13,254,500
TOTAL	30,241,200	31,416,600

Notwithstanding any other statutory provisions to the contrary, the Secretary shall promulgate such administrative regulations as may be required to prescribe such user fees as are necessary to support the Restricted Funds appropriations above.

TOTAL - CABINET FOR HEALTH SERVICES

	2002-03	2003-04
General Fund (Tobacco)	24,338,800	23,482,800
General Fund	1,047,298,800	1,056,355,700
Restricted Funds	508,413,200	514,467,000
Federal Funds	2,500,058,300	2,484,056,300
TOTAL	4,080,109,100	4,078,361,800

H. JUSTICE CABINET

55. JUSTICE OPERATIONS

Budget Units

a. Justice Administration

	2002-03	2003-04
General Fund	8,156,000	8,301,000
Restricted Funds	1,908,100	2,164,200
Federal Funds	13,433,500	13,384,700
TOTAL	23,497,600	23,849,900

Included in the above General Fund appropriation is $1,425,000 in fiscal year 2002-2003 and $1,425,000 in fiscal year 2003-2004 to provide free civil legal services for indigents.

Included in the above General Fund appropriation is $1,096,700 in fiscal year 2002-2003 and $1,152,200 in fiscal year 2003-2004 for the operation of the State Parole Board.

Included in the above General Fund appropriation is $70,000 in fiscal year 2002-2003 and $70,000 in fiscal year 2003-2004 for a grant to continue the Urban League of Lexington-Fayette County Construction Training Program.

Included within the above Restricted Funds appropriation is $375,600 in fiscal year 2002-2003 and $363,700 in fiscal year 2003-2004 to support the Criminal Justice Council. Notwithstanding the provisions of KRS 15.440, KRS 15.460, and KRS 15.470, these Restricted Funds shall come from the Kentucky Law Enforcement Foundation Program Fund (KLEFPF).

b. State Police

	2001-02	2002-03	2003-04
General Fund		85,372,100	88,184,700
Restricted Funds	5,554,200	7,720,800	7,671,200
Road Fund		30,000,000	30,000,000
Federal Funds		9,772,600	10,261,300

TOTAL	5,554,200	132,865,500	136,117,200

There is appropriated from the General Fund to the Department of State Police, subject to the conditions and procedures provided in this Act, funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty when an emergency situation has been declared to exist by the Governor. Funding is authorized to be provided from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

c. Criminal Justice Training

	2001-02	2002-03	2003-04
Restricted Funds	1,600,000	37,427,100	38,228,400
Federal Funds		2,700,000	2,700,000
TOTAL	1,600,000	40,127,100	40,928,400

Included within the above Restricted Funds appropriation is $287,000 in fiscal year 2003-2004 to provide for debt service payments to support Bond Funds totaling $1,500,000 for equipment and furnishings for the Law Enforcement Training Complex authorized in Part II, Capital Projects Budget of this Act.

Included in the above appropriation is $22,167,300 in fiscal year 2002-2003 and $22,915,000 in fiscal year 2003-2004 for training incentive payments in accordance with KRS 15.430 and KRS 15.440.

Notwithstanding KRS 15.460(1), included in the above Restricted Funds appropriation is $3,100 in fiscal year 2002-2003 and $3,100 in fiscal year 2003-2004 for training incentive payments for each participant.

d. Juvenile Justice

	2002-03	2003-04
General Fund	82,685,100	85,235,100
Restricted Funds	14,115,000	15,791,600
Federal Funds	17,300,000	17,250,000
TOTAL	114,100,100	118,276,700

Included in the above General Fund appropriation is $4,000,000 in fiscal year 2002-2003 and $3,744,700 in fiscal year 2003-2004 to support detention subsidies to counties of $80 per day per juvenile.

Included in the above General Fund appropriation is $300,000 in fiscal year 2002-2003 and $300,000 in fiscal year 2003-2004 for the operation of the Gateway Juvenile Diversion Center.

Included in the above General Fund appropriation is $300,000 in fiscal year 2002-2003 and $300,000 in fiscal year 2003-2004 for the operation of the Mary Kendall Homes.

TOTAL - JUSTICE OPERATIONS

	2001-02	2002-03	2003-04
General Fund		176,213,200	181,720,800
Restricted Funds	7,154,200	61,171,000	63,855,400
Road Fund		30,000,000	30,000,000
Federal Funds		43,206,100	43,596,000
TOTAL	7,154,200	310,590,300	319,172,200

56. CORRECTIONS

Budget Units

a. Corrections Management

	2002-03	2003-04
General Fund	15,172,900	15,967,800
Restricted Funds	15,849,700	15,633,900
Federal Funds	799,400	800,000
TOTAL	31,822,000	32,401,700

Included within the above General Fund appropriation is $194,000 in fiscal year 2003-2004 to provide for debt service payments to support Bond Funds totaling $1,260,000 for capital projects authorized in Part II, Capital Projects Budget of this Act.

b. Community Services and Local Facilities

	2002-03	2003-04
General Fund	65,969,000	79,075,000
Restricted Funds	15,623,400	629,900

TOTAL	81,592,400	79,704,900

Notwithstanding the provisions of KRS 441.605 to KRS 441.695 for fiscal year 2002-2003, funds in the amount of $15,000,000 shall be expended from the Kentucky Local Correctional Facilities Construction Authority for local correctional facility and operational support consistent with contractual covenants in accordance with bond indentures of the Authority.

In accordance with KRS 196.076(1) to (8), funding is provided for the probation and parole salary improvement program.

c. Adult Correctional Institutions

	2002-03	2003-04
General Fund	188,590,800	201,583,900
Restricted Funds	6,526,100	6,588,500
Federal Funds	215,200	215,200
TOTAL	195,332,100	208,387,600

d. Local Jail Support

	2002-03	2003-04
General Fund	15,276,100	15,276,100

Included in the General Fund appropriation is $931,100 in fiscal year 2002-2003 and $931,100 in fiscal year 2003-2004 for medical care contracts to be distributed, upon approval of the Department of Corrections, to counties by the formula codified in KRS 441.206; $400,000 in fiscal year 2002-2003 and $400,000 in fiscal year 2003-2004 is provided, on a partial reimbursement basis, for medical claims in excess of the statutory threshold pursuant to KRS 441.045. The funding support for medical contracts and catastrophic medical expenses for indigents shall be maintained in discrete accounts. Any medical claim which exceeds the statutory threshold may be reimbursed for that amount in excess of the statutory threshold. In no event shall this apply to expenses of an elective, as opposed to emergency, basis, and expenses shall be paid according to the Kentucky Medical Assistance Schedule.

TOTAL - CORRECTIONS

	2002-03	2003-04
General Fund	285,008,800	311,902,800
Restricted Funds	37,999,200	22,852,300
Federal Funds	1,014,600	1,015,200
TOTAL	324,022,600	335,770,300

TOTAL - JUSTICE CABINET

	2001-02	2002-03	2003-04
General Fund		461,222,000	493,623,600
Restricted Funds	7,154,200	99,170,200	86,707,700
Federal Funds		44,220,700	44,611,200
Road Fund		30,000,000	30,000,000
TOTAL	7,154,200	634,612,900	654,942,500

I. LABOR

LABOR CABINET

57. Budget Units

a. General Administration and Support

	2002-03	2003-04
General Fund	414,900	432,700
Restricted Funds	5,652,600	5,897,300
TOTAL	6,067,500	6,330,000

b. Workplace Standards

	2002-03	2003-04
General Fund	2,085,400	2,067,600
Restricted Funds	117,965,500	116,361,000
Federal Funds	3,280,500	3,280,500
TOTAL	123,331,400	121,709,100

c. Workers' Claims

	2002-03	2003-04
Restricted Funds	16,397,700	17,093,300

d. Kentucky Occupational Safety and Health Review Commission

	2002-03	2003-04
Restricted Funds	476,800	479,300

TOTAL - LABOR CABINET

	2002-03	2003-04
General Fund	2,500,300	2,500,300
Restricted Funds	140,492,600	139,830,900
Federal Funds	3,280,500	3,280,500
TOTAL	146,273,400	145,611,700

Budget Unit

58. KENTUCKY WORKERS' COMPENSATION FUNDING COMMISSION

	2002-03	2003-04
Restricted Funds	145,502,000	145,089,000

Notwithstanding the provisions of KRS 342.122, the Kentucky Workers' Compensation Funding Commission is authorized to finance a portion of the Mines and Minerals budget through Special Fund assessments. Funds in the amount of $850,000 in fiscal year 2002-2003 and $850,000 in fiscal year 2003-2004 shall be transferred to the Department of Mines and Minerals.

Notwithstanding the provisions of KRS 342.122(1)(c), no General Fund appropriation is provided to the Workers' Compensation Funding Commission in fiscal year 2002-2003 and fiscal year 2003-2004.

Notwithstanding the provisions of KRS 342.122(1)(b), the workers' compensation assessment rate shall remain at eleven and one-half percent (11-1/2%) for the biennium.

TOTAL - LABOR

	2002-03	2003-04
General Fund	2,500,300	2,500,300
Restricted Funds	285,994,600	284,919,900
Federal Funds	3,280,500	3,280,500
TOTAL	291,775,400	290,700,700

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

59. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Budget Units

a. General Administration and Support

	2002-03	2003-04
General Fund	9,698,100	10,316,000
Restricted Funds	331,900	277,300
Federal Funds	1,585,200	1,596,300
TOTAL	11,615,200	12,189,600

b. Environmental Protection

	2002-03	2003-04
General Fund	23,497,000	24,301,900
Restricted Funds	20,042,300	23,059,700
Federal Funds	19,357,000	19,661,900
TOTAL	62,896,300	67,023,500

Notwithstanding KRS 224.43-320, no funds are provided in the above appropriations for the assignment of full-time inspectors to each municipal solid waste landfill operating in the Commonwealth.

c. Natural Resources

	2002-03	2003-04
General Fund (Tobacco)	9,000,000	9,000,000
General Fund	13,275,600	14,203,800

Restricted Funds	3,398,100	3,809,900
Federal Funds	5,397,700	4,914,700
TOTAL	31,071,400	31,928,400

Not less than $240,000 of the General Fund appropriation for each fiscal year shall be set aside for emergency forest fire suppression. There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures provided in this Act, which are required as a result of emergency fire suppression activities in excess of the $240,000 amount. Fire suppression costs in excess of $240,000 annually shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

d. Surface Mining Reclamation and Enforcement

	2002-03	2003-04
General Fund	10,319,700	10,680,700
Restricted Funds	6,157,800	6,484,100
Federal Funds	17,243,300	17,390,000
TOTAL	33,720,800	34,554,800

Included in the General Fund appropriation is $675,000 in each fiscal year for the return of permit and acreage fees under KRS 350.139; any required expenditure for this purpose in excess of this amount in either fiscal year is appropriated to the department.

e. Abandoned Mine Land Reclamation Projects

	2002-03	2003-04
Federal Funds	22,000,000	22,000,000

The above appropriations represent estimates of the funds to be received and expended for this program. If additional funds become available, the funds are appropriated subject to the conditions and procedures provided in this Act.

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

	2002-03	2003-04
General Fund (Tobacco)	9,000,000	9,000,000
General Fund	56,790,400	59,502,400
Restricted Funds	29,930,100	33,631,000
Federal Funds	65,583,200	65,562,900
TOTAL	161,303,700	167,696,300

60. ENVIRONMENTAL QUALITY COMMISSION

	2002-03	2003-04
General Fund	260,500	276,300
Restricted Funds	2,000	
TOTAL	262,500	276,300

61. KENTUCKY NATURE PRESERVES COMMISSION

	2002-03	2003-04
General Fund	980,900	1,053,100
Restricted Funds	314,700	298,700
Federal Funds	25,000	25,000
TOTAL	1,320,600	1,376,800

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

	2002-03	2003-04
General Fund (Tobacco)	9,000,000	9,000,000
General Fund	58,031,800	60,831,800
Restricted Funds	30,246,800	33,929,700
Federal Funds	65,608,200	65,587,900
TOTAL	162,886,800	169,349,400

K. PERSONNEL CABINET

62. PERSONNEL CABINET

Budget Units

a. General Operations

	2002-03	2003-04
General Fund	3,345,100	3,345,100
Restricted Funds	13,222,000	14,223,200
TOTAL	16,567,100	17,568,300

Notwithstanding KRS 18A.015(2), (3), and (4), the Personnel Cabinet shall collect a benefits assessment per month per employee eligible for health insurance coverage in the state group as contained in Appendix B of the budget instructions promulgated by the Legislative Research Commission and communicated to agencies by the Office of State Budget Director for duly authorized use by the Personnel Cabinet in administering its statutory and administrative responsibilities, including but not limited to administration of the Commonwealth's health insurance program.

b. Public Employees Deferred Compensation Authority

	2002-03	2003-04
Restricted Funds	5,183,300	5,622,100

c. Workers' Compensation Benefits and Reserve

	2002-03	2003-04
Restricted Funds	17,269,200	18,138,200

The above appropriations represent estimates of the funds necessary to operate this program. If additional funds are required to adequately maintain this program, the necessary Restricted Funds are appropriated, subject to the conditions and procedures provided in this Act.

TOTAL - PERSONNEL CABINET

	2002-03	2003-04
General Fund	3,345,100	3,345,100
Restricted Funds	35,674,500	37,983,500
TOTAL	39,019,600	41,328,600

L. POSTSECONDARY EDUCATION

Budget Units

63. COUNCIL ON POSTSECONDARY EDUCATION

	2002-03	2003-04
General Fund (Tobacco)	6,280,000	5,455,000
General Fund	101,354,300	133,915,800
Restricted Funds	7,451,300	4,707,700
Federal Funds	3,161,200	3,161,200
TOTAL	118,246,800	147,239,700

Included in the above General Fund appropriation is $82,270,900 in fiscal year 2002-2003 and $114,545,700 in fiscal year 2003-2004 for the Strategic Investment and Incentive Funding Program. The following trust funds and funding programs make up the Strategic Investment and Incentive Funding Program for fiscal year 2002-2003 and for fiscal year 2003-2004. Included in the above General Fund appropriation is $11,230,000 in fiscal year 2003-2004 for the Research Challenge Trust Fund. Included in the above General Fund appropriation is $2,246,000 in fiscal year 2003-2004 for the Regional University Excellence Trust Fund. Included in the above General Fund appropriation is $1,300,000 in fiscal year 2002-2003 and $1,300,000 in fiscal year 2003-2004 for the Technology Initiative Trust Fund. Included in the above General Fund appropriation is $62,431,300 in fiscal year 2002-2003 and $79,230,100 in fiscal year 2003-2004 for the Student Financial Aid and Advancement Trust Fund. Included in the above Restricted Funds appropriation is $750,000 in fiscal year 2002-2003 for the Student Financial Aid and Advancement Trust Fund. Included in the above General Fund appropriation is $11,768,000 in fiscal year 2002-2003 and $11,768,000 in fiscal year 2003-2004 for the Adult Education and Literacy Funding Program. Included in the above General Fund appropriation is $6,771,600 in fiscal year 2002-2003 and $8,771,600 in fiscal year 2003-2004 for the Science and Technology Funding Program. Included in the above Restricted Funds appropriation is $4,000,000 in fiscal year 2002-2003 and $2,000,000 in fiscal year 2003-2004 for the Science and Technology Funding Program.

Included in the above General Fund appropriation for the Research Challenge Trust Fund is $11,230,000 in fiscal year 2003-2004 for debt service to support the Research Challenge Trust Fund-Endowment Match capital project appropriation authorized in Part II.

Included in the above General Fund appropriation for the Regional University Excellence Trust Fund is $2,246,000 in fiscal year 2003-2004 for debt service to support the Regional University Excellence Trust Fund-Endowment Match capital project appropriation authorized in Part II.

Notwithstanding the provisions of KRS 45.229, the General Fund appropriations in fiscal year 2002-2003 to the Adult Education and Literacy Funding Program shall not lapse.

Notwithstanding the provisions of KRS 45.229, the General Fund appropriations in fiscal year 2002-2003 to the Science and Technology Funding Program shall not lapse.

64. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

	2002-03	2003-04
General Fund (Tobacco)	750,000	750,000
General Fund	45,860,000	66,828,300
Restricted Funds	83,302,500	97,352,600
Federal Funds	817,800	890,000
TOTAL	130,730,300	165,820,900

Included in the above General Fund appropriation is $28,885,800 for the College Access Program in fiscal year 2002-2003 and $42,504,400 in fiscal year 2003-2004 notwithstanding the provisions of KRS 154A.130(4). General Fund appropriations for the College Access Program in the amount of $5,477,800 shall continue from fiscal year 2001-2002 into fiscal year 2002-2003 notwithstanding the provisions of KRS 45.229.

Included in the above General Fund appropriation is $12,288,400 for the Kentucky Tuition Grant Program in fiscal year 2002-2003 and $18,216,200 in fiscal year 2003-2004 notwithstanding the provisions of KRS 154A.130(4). General Fund appropriations for the Kentucky Tuition Grant Program in the amount of $2,438,900 shall continue from fiscal year 2001-2002 into fiscal year 2002-2003 notwithstanding the provisions of KRS 45.229.

Included in the above General Fund for Teacher Scholarship Program is $976,600 in fiscal year 2002-2003 and $2,279,400 in fiscal year 2003-2004 notwithstanding the provisions of KRS 154A.130(4).

Included in the above Restricted Funds is $742,800 in fiscal year 2002-2003 and $765,100 in fiscal year 2003-2004 for the administration of the Kentucky Educational Excellence Scholarship Program.

Any General Fund appropriation to the Kentucky Higher Education Assistance Authority that is unexpended in fiscal years 2001-2002 or 2002-2003 shall not lapse, and shall be continued into the next fiscal year notwithstanding the provisions of KRS 45.229. The expenditure of continuing General Fund appropriation in excess of the amounts specified above shall be subject to the review and approval of the State Budget Director.

65. EASTERN KENTUCKY UNIVERSITY

	2002-03	2003-04
General Fund	73,451,800	76,115,100
Restricted Funds	83,158,600	87,603,100
Federal Funds	44,454,400	46,665,700
TOTAL	201,064,800	210,383,900

Included in the above General Fund appropriation is $3,700,400 in fiscal year 2002-2003 and $3,712,100 in fiscal year 2003-2004 for debt service for previously issued bonds.

66. KENTUCKY STATE UNIVERSITY

	2002-03	2003-04
General Fund	23,162,700	23,481,500
Restricted Funds	16,446,900	17,699,000
Federal Funds	11,500,400	11,730,400
TOTAL	51,110,000	52,910,900

Included in the above General Fund appropriation is $2,247,600 in fiscal year 2002-2003 and $2,252,000 in fiscal year 2003-2004 for debt service for previously issued bonds.

67. MOREHEAD STATE UNIVERSITY

	2002-03	2003-04
General Fund	42,747,400	44,103,500
Restricted Funds	46,293,500	47,104,600
Federal Funds	46,570,500	51,207,100
TOTAL	135,611,400	142,415,200

Included in the above General Fund appropriation is $1,543,700 in fiscal year 2002-2003 and $1,452,600 in fiscal year 2003-2004 for debt service for previously issued bonds.

68. MURRAY STATE UNIVERSITY

	2002-03	2003-04
General Fund	51,669,400	53,230,000
Restricted Funds	68,752,700	72,256,200
Federal Funds	10,646,700	10,906,800
TOTAL	131,068,800	136,393,000

Included in the above General Fund appropriation is $1,880,700 in fiscal year 2002-2003 and $1,884,500 in fiscal year 2003-2004 for debt service for previously issued bonds.

69. NORTHERN KENTUCKY UNIVERSITY

	2002-03	2003-04
General Fund	45,989,000	48,636,400
Restricted Funds	66,180,400	69,535,800
Federal Funds	7,422,000	7,669,100
TOTAL	119,591,400	125,841,300

Included in the above General Fund appropriation is $5,019,600 in fiscal year 2002-2003 and $5,033,300 in fiscal year 2003-2004 for debt service for previously issued bonds.

70. UNIVERSITY OF KENTUCKY

	2002-03	2003-04
General Fund	313,431,100	3,317,803,800
Restricted Funds	858,999,900	873,254,500
Federal Funds	126,193,600	128,053,100
TOTAL	1,298,624,600	1,319,111,400

Included in the above General Fund appropriation is $6,461,300 in fiscal year 2002-2003 and $5,848,900 in fiscal year 2003-2004 for debt service for previously issued bonds.

Included in the above General Fund appropriation is $588,000 in fiscal year 2002-2003 and $600,000 in fiscal year 2003-2004 for the Collaborative Center for Literacy Development for the Reading Recovery Teacher Leader Training program for public postsecondary education institutions, the eight Regional Service Centers established by KRS 156.017, and local school districts.

Included in the above General Fund appropriation is $9,150,700 in fiscal year 2002-2003 and $9,416,500 in fiscal year 2003-2004 to support the operations of the Lexington Community College, of which $988,100 in fiscal year 2002-2003 and $732,700 in fiscal year 2003-2004 is for debt service for previously issued bonds.

Included in the above Restricted Funds appropriation is $14,424,900 in fiscal year 2002-2003 and $15,388,100 in fiscal year 2003-2004 to support the operations of the Lexington Community College.

Included in the above Federal Funds appropriation is $5,923,500 in fiscal year 2002-2003 and $5,923,500 in fiscal year 2003-2004 to support the operations of the Lexington Community College. Included in the above General Fund appropriation is $103,000 in fiscal year 2002-2003 and $103,000 in fiscal year 2003-2004 for the Ovarian Cancer Screening Program. Also, notwithstanding KRS 164.7911 through 164.7927, General Fund (Tobacco) dollars in the amount of $700,000 each fiscal year shall be transferred from the Research Challenge Trust Fund's Lung Cancer Research Program and allotted to the Ovarian Cancer Screening Out Reach Program at the University of Kentucky as specified in Part IX, Special Provisions, of this Act.

71. UNIVERSITY OF LOUISVILLE

	2002-03	2003-04
General Fund	176,745,200	179,095,300
Restricted Funds	293,702,300	302,317,400
Federal Funds	49,334,100	50,789,900
TOTAL	519,781,600	532,202,600

Included in the above General Fund appropriation is $11,330,000 in fiscal year 2002-2003 and $9,504,900 in fiscal year 2003-2004 for debt service for previously issued bonds. Also included in the above General Fund appropriation is $17,052,900 in fiscal year 2002-2003 and $17,500,300 in fiscal year 2003-2004 to fulfill the Commonwealth's contractual obligation relating to indigent care furnished via the Quality and Charity Care Trust Agreement. Included in the above Restricted Funds appropriation is $50,000 in fiscal year 2002-2003 for the Quality and Charity Trust Agreement.

The General Fund appropriation related to the Quality and Charity Trust Agreement in fiscal year 2001-2002 shall not lapse, notwithstanding KRS 45.229. The General Fund appropriation related to the Quality and Charity Care Trust Agreement in the first year of the biennium shall continue into the second year for this purpose, notwithstanding KRS 45.229. Any unused portion of the General Fund appropriation relating to the Quality and Charity Care Trust Agreement shall lapse to the credit of the

General Fund at the end of fiscal year 2003-2004.

72. WESTERN KENTUCKY UNIVERSITY

	2002-03	2003-04
General Fund	70,427,100	74,572,800
Restricted Funds	81,837,400	85,598,400
Federal Funds	30,444,000	32,444,000
TOTAL	182,708,500	192,615,200

Included in the above General Fund appropriation is $3,295,900 in fiscal year 2002-2003 and $3,114,500 in fiscal year 2003-2004 for debt service for previously issued bonds.

73. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

	2002-03	2003-04
General Fund	189,722,700	195,194,000
Restricted Funds	177,568,900	185,450,000
Federal Funds	68,053,500	71,735,500
TOTAL	435,345,100	452,379,500

Included in the above General Fund appropriation is $10,726,000 in fiscal year 2002-2003 and $10,765,800 in fiscal year 2003-2004 for debt service for previously issued bonds.

Notwithstanding KRS 95A.250(1), or the provisions of any other law, supplemental payments for each qualified professional firefighter under the Firefighters Foundation Fund shall be $3,100 in fiscal year 2002-2003 and $3,100 in fiscal year 2003-2004.

TOTAL - POSTSECONDARY EDUCATION

	2002-03	2003-04
General Fund (Tobacco)	7,030,000	6,205,000
General Fund	1,134,560,700	1,212,976,500
Restricted Funds	1,783,694,400	1,842,879,300
Federal Funds	398,598,200	415,252,800
TOTAL	3,323,883,300	3,477,313,600

M. PUBLIC PROTECTION AND REGULATION CABINET

Budget Units

74. BOARD OF CLAIMS/CRIME VICTIMS' COMPENSATION

	2002-03	2003-04
General Fund	635,000	657,300
Restricted Funds	2,539,000	2,936,900
Federal Funds	546,900	557,800
TOTAL	3,720,900	4,152,000

75. ALCOHOLIC BEVERAGE CONTROL

	2002-03	2003-04
General Fund	250,000	1,663,000
Restricted Funds	5,787,600	4,545,200
TOTAL	6,037,600	6,208,200

Included in the above General Fund appropriation is $250,000 in fiscal year 2002-2003 and $250,000 in fiscal year 2003-2004 to carry out the provisions of KRS 438.337.

76. FINANCIAL INSTITUTIONS

	2002-03	2003-04
Restricted Funds	8,993,100	9,329,700

77. KENTUCKY RACING COMMISSION

	2002-03	2003-04
General Fund	522,800	522,800
Restricted Funds	13,702,600	13,664,500
TOTAL	14,225,400	14,187,300

78. HOUSING, BUILDINGS AND CONSTRUCTION

	2002-03	2003-04
General Fund	1,764,100	2,726,600
Restricted Funds	12,826,500	12,287,600
TOTAL	14,590,600	15,014,200

79. INSURANCE

General Operations

	2002-03	2003-04
General Fund (Tobacco)	19,405,200	16,855,900
Restricted Funds	22,851,900	24,162,100
TOTAL	42,257,100	41,018,000

80. MINES AND MINERALS

	2002-03	2003-04
General Fund	9,614,900	9,714,900
Restricted Funds	1,961,100	2,043,200
Federal Funds	598,500	598,500
TOTAL	12,174,500	12,356,600

Notwithstanding KRS 342.122, the Kentucky Workers' Compensation Funding Commission will finance a portion of the Mines and Minerals budget through Special Fund assessments. Funds in the amount of $850,000 in fiscal year 2002-2003 and $850,000 in fiscal year 2003-2004 shall be transferred to Mines and Minerals.

81. PUBLIC ADVOCACY

	2002-03	2003-04
General Fund	23,925,300	25,264,800
Restricted Funds	2,980,900	3,077,900
Federal Funds	1,313,100	1,384,500
TOTAL	28,219,300	29,727,200

82. PUBLIC SERVICE COMMISSION

	2002-03	2003-04
General Fund	11,527,900	11,752,100
Restricted Funds	24,000	24,000
Federal Funds	259,800	272,200
TOTAL	11,811,700	12,048,300

Included in the above General Fund appropriation is $589,000 in fiscal year 2002-2003 and $589,000 in fiscal year 2003-2004 for debt service on bonds for the new office building authorized by the 1996 General Assembly.

Any General Fund appropriation to the Public Service Commission that is unexpended in fiscal years 2001-2002 or 2002-2003 shall not lapse and shall be carried forward into the next fiscal year, notwithstanding KRS 45.229.

83. SECRETARY

a. General Operations

	2002-03	2003-04
General Fund	268,200	278,600
Restricted Funds	2,036,900	2,095,700
TOTAL	2,305,100	2,374,300

b. Petroleum Storage Tank Environmental Assurance Fund

	2002-03	2003-04
Restricted Funds	32,103,700	29,660,600

TOTAL - SECRETARY

	2002-03	2003-04
General Fund	268,200	278,600
Restricted Funds	34,140,600	31,756,300

TOTAL	34,408,800	32,034,900

84. BOARD OF TAX APPEALS

	2002-03	2003-04
General Fund	478,100	498,600

85. CHARITABLE GAMING

	2002-03	2003-04
Restricted Funds	2,934,300	3,215,500

TOTAL - PUBLIC PROTECTION AND REGULATION CABINET

	2002-03	2003-04
General Fund (Tobacco)	19,405,200	16,855,900
General Fund	48,986,300	53,078,700
Restricted Funds	108,741,600	107,042,900
Federal Funds	2,718,300	2,813,000
TOTAL	179,851,400	179,790,500

N. REVENUE

Budget Units

86. REVENUE CABINET

	2002-03	2003-04
General Fund	67,852,000	65,032,000
Restricted Funds	4,519,000	4,149,200
Road Fund	1,418,000	1,418,000
TOTAL	73,789,000	70,599,200

Notwithstanding KRS 136.392, the insurance surcharge rate shall be calculated at a rate to provide sufficient funds in the 2002-2004 fiscal biennium for the Firefighters Foundation Program Fund and the Kentucky Law Enforcement Foundation Program Fund, including the administration of training programs, pay supplements prescribed by statute, and debt service for the respective program funds specified in KRS 15.410 to 15.510, KRS 42.190, KRS 95A.220, and KRS 95A.262 in fiscal year 2002-2003 and fiscal year 2003-2004. The calculation of sufficient funds for the above-named programs shall include any Restricted Funds carried forward from fiscal years 2002-2003 and 2003-2004 provided by the General Assembly in this Act.

The above Road Fund appropriation represents the cost of the Road Fund Compliance and Motor Vehicle Property Tax programs within the Revenue Cabinet and is to be used exclusively for that purpose.

Notwithstanding the provisions of KRS 134.400, the administration of the Delinquent Tax Fund is in the Department of Property Valuation. Proceeds shall be deposited to this account except that the first $100,000 shall be deposited exclusively to the General Fund. The Revenue Cabinet may retain and expend funds from the accumulated balance in the Delinquent Tax Fund account for the administrative activities of the Revenue Cabinet.

87. PROPERTY VALUATION ADMINISTRATORS

	2002-03	2003-04
General Fund	27,281,800	28,072,300
Restricted Funds	3,894,100	4,464,100
TOTAL	31,175,900	32,536,400

Notwithstanding KRS 132.590(3)(c), KRS 132.590(4), and KRS 132.597, the property valuation administrators are authorized to take necessary actions to manage expenditures within the appropriated amounts contained in this Act.

TOTAL - REVENUE CABINET

	2002-03	2003-04
General Fund	95,133,800	93,104,300
Restricted Funds	8,413,100	8,613,300
Road Fund	1,418,000	1,418,000
TOTAL	104,964,900	103,135,600

O. TOURISM DEVELOPMENT CABINET

Budget Units

88. OFFICE OF THE SECRETARY

	2002-03	2003-04

General Fund	4,259,000	4,534,000
Restricted Funds	119,000	1,200,000
TOTAL	4,378,000	5,734,000

Included in the above General Fund appropriation is $2,500,000 in fiscal year 2002-2003 and $2,500,000 in fiscal year 2003-2004 for the purpose of supporting expenditures relating to agencies and programs within the Tourism Development Cabinet. The Secretary of the Tourism Development Cabinet shall have the ability to transfer these funds to other programs and budget units within the Tourism Development Cabinet. Any funds transferred to other agencies within the Tourism Development Cabinet shall be designated as Restricted Funds and may be used to support the activities, programs, and operations of the agency receiving the respective funds.

89. BREAKS INTERSTATE PARK

	2002-03	2003-04
General Fund	200,000	200,000

90. TRAVEL DEVELOPMENT

	2002-03	2003-04
General Fund	7,041,000	7,211,000

91. PARKS

	2001-02	2002-03	2003-04
General Fund		29,446,000	29,518,000
Restricted Funds	400,000	50,898,000	52,400,000
Federal Funds	14,000		
TOTAL	414,000	80,344,000	81,918,000

Notwithstanding the provisions of KRS 148.800 to KRS 148.810 or any other statute or provision of law to the contrary, the General Assembly authorizes the use of the Park Capital Maintenance and Renovation Fund for any ongoing cost of the Department of Parks.

92. KENTUCKY HORSE PARK

	2001-02	2002-03	2003-04
General Fund	300,000	1,550,000	1,550,000
Restricted Funds		5,200,000	5,632,000
TOTAL	300,000	6,750,000	7,182,000

93. KENTUCKY STATE FAIR BOARD

	2002-03	2003-04
General Fund	407,000	737,000
Restricted Funds	30,163,000	30,673,000
TOTAL	30,570,000	31,410,000

Included in the Restricted Funds appropriation is $371,000 in fiscal year 2002-2003 and $371,000 in fiscal year 2003-2004 for debt service for Project 55.

Any available Restricted Funds included in the State Fair Board's Capital Budget Account may be transferred to the operating budget to support personnel and operating expenses of the State Fair Board.

94. FISH AND WILDLIFE RESOURCES

	2002-03	2003-04
Restricted Funds	27,380,900	28,658,000
Federal Funds	7,850,000	7,650,000
TOTAL	35,230,900	36,308,000

TOTAL-TOURISM DEVELOPMENT CABINET

	2001-02	2002-03	2003-04
General Fund	300,000	42,903,000	43,750,000
Restricted Funds	400,000	113,760,900	118,563,000
Federal Funds	14,000	7,850,000	7,650,000
TOTAL	714,000	164,513,900	169,963,000

P. TRANSPORTATION CABINET

95. TRANSPORTATION CABINET

Budget Units

a. Air Transportation

	2002-03	2003-04
Restricted Funds	4,817,200	4,817,900
Federal Funds	13,800	9,400
TOTAL	4,831,000	4,827,300

Notwithstanding KRS 183.525(5), the Restricted Funds appropriation above includes operational costs of the program.

b. Revenue Sharing

	2001-02	2002-03	2003-04
Road Fund	6,458,800	217,962,400	221,866,600

1. The Official Road Fund Revenue Estimate, revised in December 2001, increased the 2001-2002 estimate by $49,626,000, of which $6,458,800 is appropriated to the Revenue Sharing programs. In accordance with KRS Chapter 177, this increased revenue shall be appropriated to the County Road Aid program, $2,452,200; the Rural Secondary program, $2,974,800; and the Municipal Aid program, $1,031,800.

2. Included in the above Road Fund appropriation is $82,440,100 in fiscal year 2002-2003 and $83,922,400 in fiscal year 2003-2004 for the County Road Aid program in accordance with KRS 177.320, 179.410, 179.415, and 179.440. Notwithstanding KRS 177.320(2), the above amount has been reduced by $38,000 in fiscal year 2002-2003 and $38,000 in fiscal year 2003-2004 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

3. Included in the above Road Fund appropriation is $100,009,400 in fiscal year 2002-2003 and $101,807,600 in fiscal year 2003-2004 for the Rural Secondary program in accordance with KRS 177.320, 177.330, 177.340, 177.350, and 177.360. Notwithstanding KRS 177.320(1), the above amount has been reduced by $46,000 in fiscal year 2002-2003 and $46,000 in fiscal year 2003-2004 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

4. Included in the above Road Fund appropriation is $34,687,900 in fiscal year 2002-2003 and $35,311,600 in fiscal year 2003-2004 for the Municipal Road Aid program in accordance with KRS 177.365 to 177.369. Notwithstanding KRS 177.365(1), the above amount has been reduced by $16,000 in fiscal year 2002-2003 and $16,000 in fiscal year 2003-2004 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

5. Included in the above Road Fund appropriation is $825,000 in fiscal year 2002-2003 and $825,000 in fiscal year 2003-2004 for the Energy Recovery Road Fund in accordance with KRS 177.977 to 177.981.

c. Public Transportation

	2002-03	2003-04
General Fund	4,875,300	4,875,300
Restricted Funds	2,506,100	874,100
Federal Funds	28,864,900	27,517,000
TOTAL	36,246,300	33,266,400

Included in the above General Fund appropriation is $2,500,000 in fiscal year 2002-2003 and $2,500,000 in fiscal year 2003-2004 for non-public school transportation.

Included in the above General Fund appropriation is $40,000 in fiscal year 2002-2003 for law enforcement needs for Allen County.

d. Highways

	2001-2002	2002-03	2003-04
Restricted Funds		61,627,300	61,633,800
Federal Funds		495,939,000	496,114,400
Road Fund	43,167,200	570,470,500	597,427,400
TOTAL	43,167,200	1,128,036,800	1,155,175,600

1. The Official Road Fund Revenue Estimate, revised in December 2001, increased the 2001-2002 estimate by $49,626,000, of which $43,167,200 is appropriated to the State Funded Construction program.

2. Included in the above Road Fund appropriation is $209,051,100 in fiscal year 2002-2003 and $218,209,500 in fiscal year 2003-2004 for the State Funded Construction program.

Included in the State Funded Construction program is $66,000,000 in fiscal year 2002-2003 and $67,320,000 in fiscal year 2003-2004 from the Road Fund for the State Resurfacing program.

Included in the State Funded Construction program is $500,000 in fiscal year 2002-2003 and $500,000 in fiscal year 2003-2004 from the Road Fund for the Specialized Contracts account.

Included in the State Funded Construction program is $105,551,100 in fiscal year 2002-2003 and $112,649,500 in fiscal year 2003-2004 from the Road Fund for state construction projects in the 2002-2004 Biennial Highway Construction program.

Included in the State Funded Construction program is $37,000,000 in fiscal year 2002-2003 and $37,740,000 in fiscal year 2003-2004 for the Highway Construction Contingency Account.

3. Projects in the enacted 2000-2002 Biennial Highway Construction Plan are authorized to continue their current authorization into the 2002-2004 biennium.

4. Notwithstanding KRS 177.320(4), included in the above Road Fund appropriation is $290,000 in fiscal year 2002-2003 and $290,000 in fiscal year 2003-2004 for the Kentucky Transportation Center.

5. Notwithstanding KRS 48.710, Restricted Funds are appropriated in the amount of $1,500,000 in fiscal year 2002-2003 and $1,500,000 in fiscal year 2003-2004 from the sale of surplus equipment to purchase new highway equipment.

e. Vehicle Regulation

	2002-03	2003-04
Restricted Funds	7,001,700	6,699,300
Federal Funds	2,786,600	2,826,200
Road Fund	30,189,400	31,588,000
TOTAL	39,977,700	41,113,500

f. Debt Service

	2002-03	2003-04
Road Fund	167,660,900	161,312,100

1. Included in the above Road Fund appropriation is $620,600 in fiscal year 2002-2003 and $620,600 in fiscal year 2003-2004 for toll road lease rental payments.

2. Included in the above Road Fund appropriation is $26,334,900 in fiscal year 2002-2003 and $38,889,500 in fiscal year 2003-2004 for Resource Recovery Road lease rental payments. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Transportation Cabinet, pursuant to KRS 143.090. However, if Road Fund resources are not sufficient to meet lease rental payments, the additional amount required to meet the obligation shall be transferred from the proceeds of the tax levied on the severance or processing of coal by KRS 143.020.

3. Included in the above Road Fund appropriation is $140,705,400 in fiscal year 2002-2003 and $121,802,000 in fiscal year 2003-2004 for Economic Development Road lease rental payments relating to projects financed by Economic Development Road Revenue Bonds previously issued by the Turnpike Authority of Kentucky.

4. Any moneys not required to meet lease-rental payments or to meet the administrative costs of the Turnpike Authority shall be transferred to the State Construction account.

5. Notwithstanding KRS 175.505, no portion of the revenues to the state Road Fund provided by the adjustments in KRS 138.220(2), excluding KRS 177.320 and 177.365, shall accrue to the Debt Payment Acceleration Fund account during the 2002-2004 biennium.

g. General Administration and Support

	2002-03	2003-04
Restricted Funds	29,050,000	29,050,000
Road Fund	69,922,100	75,250,200
TOTAL	98,972,100	104,300,200

Included in the above Road Fund appropriation is $7,165,600 in fiscal year 2002-2003 and $7,335,500 in fiscal year 2003-2004 for debt service for previously authorized bonds to construct a new Transportation Cabinet Office Building and parking structure.

h. Judgments

Road Fund resources required to pay judgments shall be transferred from the State Construction Account at the time when actual payments must be disbursed from the State Treasury.

Notwithstanding KRS 45.229, any funds not expended by June 30, 2002, and June 30, 2003, shall not lapse and shall carry forward to the next fiscal year.

TOTAL - TRANSPORTATION CABINET

	2001-02	2002-03	2003-04
General Fund		4,875,300	4,875,300

Restricted Funds		105,002,300	103,075,100
Federal Funds		527,604,300	526,467,000
Road Fund	49,626,000	1,056,205,300	1,087,444,300
TOTAL	49,626,000	1,693,687,200	1,721,861,700

Q. WORKFORCE DEVELOPMENT CABINET

Budget Units

96. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	2002-03	2003-04
General Fund	1,145,900	1,390,100
Restricted Funds	6,661,200	6,696,400
Federal Funds	190,300	175,400
TOTAL	7,997,400	8,261,900

97. TECHNICAL EDUCATION

	2001-02	2002-03	2003-04
General Fund		23,251,700	23,517,100
Restricted Funds	1,393,000	20,087,400	19,672,600
Federal Funds	3,464,600	13,037,200	13,037,200
TOTAL	4,857,600	56,376,300	56,226,900

98. ADULT EDUCATION AND LITERACY

	2002-03	2003-04
General Fund	11,096,100	11,272,400
Restricted Funds	11,104,300	11,104,300
Federal Funds	12,624,500	15,149,400
TOTAL	34,824,900	37,526,100

99. VOCATIONAL REHABILITATION

	2002-03	2003-04
General Fund	10,895,200	11,056,400
Restricted Funds	2,911,100	2,955,100
Federal Funds	43,328,800	44,193,800
TOTAL	57,135,100	58,205,300

100. DEPARTMENT FOR THE BLIND

	2002-03	2003-04
General Fund	1,282,800	1,492,600
Restricted Funds	1,948,800	1,979,000
Federal Funds	7,484,600	7,636,700
TOTAL	10,716,200	11,108,300

101. TEACHERS' RETIREMENT-EMPLOYER'S CONTRIBUTION

	2002-03	2003-04
General Fund	4,627,700	4,743,400

The above General Fund appropriation includes the employer match for salaries paid to Workforce Development Cabinet employees who participate in the Teachers' Retirement System. This match shall be forwarded to the Teachers' Retirement System pursuant to KRS 161.560.

102. TRAINING AND REEMPLOYMENT

	2002-03	2003-04
Federal Funds	48,530,400	49,350,300

103. EMPLOYMENT SERVICES

	2001-02	2002-03	2003-04
General Fund		1,580,400	928,800
Restricted Funds		6,601,700	7,443,500

Federal Funds	6,592,900	510,779,300	509,073,300
TOTAL	6,592,900	518,961,400	517,445,600

Notwithstanding KRS 341.835, funds from the Unemployment Insurance Penalty and Interest Account in the Unemployment Compensation Administration Fund shall be used during each fiscal year by the Department for Employment Services to operate employment and training programs.

There is appropriated out of the Federal Funds made available to Kentucky under Section 903 of the Social Security Act, as amended, funds during the 2002-2004 biennium to be used under the direction of the Department for Employment Services for the purpose of administration of its unemployment compensation law and public employment offices.

TOTAL - WORKFORCE DEVELOPMENT CABINET

	2001-02	2002-03	2003-04
General Fund		53,879,800	54,400,800
Restricted Funds	1,393,000	49,314,500	49,850,900
Federal Funds	10,057,500	635,975,100	638,616,100
TOTAL	11,450,500	739,169,400	742,867,800

PART II

CAPITAL PROJECTS BUDGET

Moneys in the Capital Construction Fund are appropriated for the following capital projects subject to the conditions and procedures in this Act. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 2002-2004 biennium. Unless otherwise specified, reauthorized projects shall conform to the original authorization enacted by the General Assembly.

A. GOVERNMENT OPERATIONS

Budget Unit			2002-03	2003-04
1.	Treasury Department			
	a.	Checksealer Equipment - Lease - Additional		
		Capital Construction Surplus	63,000	63,000
	b.	Laser Check Printers - Lease - Additional		
		Capital Construction Surplus	257,000	256,000
2.	Attorney General			
	a.	Franklin County - Lease		
3.	Unified Prosecutorial System - Commonwealth's Attorneys			
	a.	Jefferson County - Lease		
4.	Governor's Office for Technology			

For the major equipment purchases displayed in this section as funded from Restricted Funds, it is anticipated that these funds shall be transferred from the Operating Budget as funds are available and needed.

		2002-03	2003-04
a.	Statewide Microwave Network Maintenance		
	Investment Income	1,500,000	
b.	Unified Criminal Justice Information System		
	Reauthorization		
	Capital Construction Surplus - Additional1,000,000		
	Restricted Funds	805,000	
	TOTAL	1,805,000	
c.	KY Information Highway Upgrade Expansion - Additional		
	Restricted Funds	1,750,000	1,750,000
d.	Enterprise Server Complex Upgrade - Additional		
	Restricted Funds	2,370,000	2,370,000
e.	Disk Storage Upgrade - Additional		
	Restricted Funds	887,000	887,000
f.	Tape Storage Upgrade - Additional		
	Restricted Funds	645,000	645,000
g.	Enterprise Messaging		

		Restricted Funds	660,000
	h.	NASA Grant for Geographic Information Systems	
		Restricted Funds (247,000 - FY 2001-2002)	
		Federal Funds (1,392,000 - FY 2001-2002)	
		Total (1,639,000 - FY 2001-2002)	
	i.	Franklin County - Lease	
5.		Governor's Office of Veterans' Affairs	
	a.	New State Veterans' Cemetery-Northern KY	
		General Fund	50,000
		Federal Funds	9,500,000
	b.	New State Veterans' Cemetery-Central KY	
		General Fund	50,000
		Federal Funds	8,900,000
6.		Kentucky Infrastructure Authority	
	a.	KIA Fund A - Federally Assisted Wastewater Program	
		Bond Funds	6,200,000

The Bond Funds appropriated above are the required state match for the federal program. The Federal Funds associated with the program are appropriated in the operating budget to comply with the Federal Cash Management Act.

Included in the above Bond Funds appropriation is the funding required in each fiscal year for the state match necessary to receive Federal Funds for the Rural Communities Hardship Grants program administered by the Natural Resources and Environmental Protection Cabinet.

The Kentucky Infrastructure Authority is authorized to expend the cash balances from loan repayments on deposit at the trustee bank for financial assistance, in the form of low-interest loans, to governmental agencies for professional planning and preliminary engineering design work required for eligible Fund A wastewater projects.

	b.	KIA Fund F - Drinking Water Revolving Loan Program	
		Bond Funds	5,000,000

The Bond Funds appropriated above are the required state match for the federal program. The Federal Funds associated with the program are appropriated in the operating budget to comply with the Federal Cash Management Act.

	c.	Water and Sewer Resources Projects Pool	
		Bond Funds	50,650,000
7.		Department of Agriculture	
	a.	Large Scale Tractor	
		Restricted Funds	175,000
	b.	Purchase of Agriculture Conservation Easements	
		Federal Funds	460,000
	c.	Livestock Scale Testing Unit	
		Restricted Funds	100,000
	d.	Franklin County - Lease	
	e.	Animal Shelters	
		Bond Funds	1,600,000
8.		Department of Military Affairs	
	a.	Construct Maintenance Shop- London	
		Federal Funds	3,640,000
	b.	Construct Combined Support Maintenance Shop	
		Federal Funds	10,465,000
	c.	Construct Army Aviation Support Facility	
		Federal Funds	17,500,000
	d.	Construct Fixed Wing Aviation Facility	
		Federal Funds	4,000,000

e.	Upgrade HVAC Ashland Armory		
	(Guaranteed Energy Performance Contract)		
f.	Upgrade HVAC Owensboro Armory		
	(Guaranteed Energy Performance Contract)		
g.	Construct Addition to Facilities Building		
	Federal Funds	911,000	
h.	Maintenance Pool		
	Investment Income	1,000,000	1,000,000
i.	Maintenance Pool - Air Transportation		
	Investment Income	400,000	400,000
j.	Maintenance Pool - Bluegrass Station		
	Restricted Funds	500,000	500,000
k.	Franklin County - Lease		
9.	Department for Local Government		
a.	Flood Control Matching Fund		
	Capital Construction and Equipment Purchase Contingency Fund	300,000	
b.	Renaissance Kentucky		
	Bond Funds		3,000,000

10. Morgan County - Park Development - Caney Creek

(Reauthorization and Reallocation ($30,709 - Bond Funds)

The project cited immediately above is authorized from a reallocation of the available balance of the Morgan County Bridge Project appropriated by the 2000 General Assembly in the amount $200,000 in Bond Funds (2000 Ky. Acts, ch. 549, Part II, R. Community Development Projects, 1. Finance and Administration Cabinet, number 556, Morgan County Bridge Project.) In accordance with the provisions of Part II (1), Capital Projects Budget Provisions, of this Act, this project is reauthorized and reallocated to provide for development of a park at the mouth of Caney Creek.

11. Breathitt County - Breathitt County High School Fieldhouse

Reauthorization and Reallocation ($250,000 - Restricted Funds)

The project cited immediately above is authorized from a reallocation of the available balance of the Breathitt County - Breathitt County High School Fieldhouse project appropriated by the 2000 General Assembly in the amount of $250,000 in Restricted Funds (2000 Ky. Acts, ch. 549, Part II, S. Coal Severance Projects, (1) Government Operations, item number 14, Breathitt County - Breathitt County High School Fieldhouse). In accordance with the provisions of Capital Projects Budget Provisions for Part II, Capital Projects, 1. of this Act, this project is reauthorized and $250,000 is reallocated to Breathitt County Schools and retitled as "Breathitt County-Recreational Playing Areas."

12.	Kentucky Retirement Systems		
a.	Franklin County - Lease		
b.	Franklin County - Lease		
13.	Kentucky River Authority		
a.	Kentucky River Storage Enhancements		
	Restricted Funds	30,000	2,500,000
14.	Board of Nursing		
a.	Jefferson County - Lease		

B. CABINET FOR ECONOMIC DEVELOPMENT

Budget Unit		2002-03	2003-04
1.	Economic Development Projects		
a.	Economic Development Bond Pool		
	Reauthorization ($12,293,000 - Bond Funds)		
	Notwithstanding KRS 154.12-100(6), the amounts shown above reflect project amounts.		
b.	New Economy High-Tech Investment/Construction Pool		
	Restricted Funds	10,000,000	10,000,000

The Commissioner of the Office for the New Economy shall determine the amounts to be apportioned between the High-Tech Investment Pool and the High-Tech Construction Pool.

C. EDUCATION

Budget Unit			2002-03	2003-04
1.	Department of Education			
	a.	Security, Fire Alarm, & Energy Systems Kentucky School for the Blind		
		Bond Funds - Additional	450,000	
	b.	Replace Kerr Hall HVAC - Kentucky School for the Deaf		
		Bond Funds - Additional	1,067,000	
	c.	Maintenance Pool		
		Investment Income	785,000	785,000
	d.	Roof Repair - Kentucky School for the Deaf		
		Capital Construction Surplus	520,000	

D. EDUCATION, ARTS, AND HUMANITIES CABINET

Budget Unit			2002-03	2003-04
1.	Kentucky Educational Television			
	a.	Camera Replacement		
		Restricted Funds	445,000	
2.	Kentucky Center for the Arts			
	a.	Maintenance Pool		
		Investment Income	150,000	150,000
	b.	Chiller Replacement		
		Investment Income	250,000	
	c.	Water Leak and Window Repair		
		Deferred Maintenance	957,000	
3.		School Facilities Construction Commission Reauthorization ($28,000,000 Bond Funds)		
		Bond Funds - Additional	122,100,000	

E. CABINET FOR FAMILIES AND CHILDREN

Budget Unit		2002-03	2003-04
1.	Administration Services		
a.	Lease - Disability Determinations Franklin County		
b.	Lease - Fayette County		
c.	Lease - Warren County		
d.	Lease - Kenton County		
e.	Lease including expansion - Jefferson County		
f.	Lease - Hardin County		
g.	Lease - Kenton County		
h.	Lease - Campbell County		
i.	Lease - Child Support Franklin County		
j.	Lease including expansion - Letcher County		
k.	Lease - OTS Franklin County		
l.	Lease including expansion - Harlan County		
m.	Lease including expansion - Henderson County		
n.	Lease including expansion - Perry County		
o.	Lease - Shelby County		
p.	Lease including expansion - Fayette County		

q. Lease - Johnson County
r. Lease including expansion - Boyd County
s. Lease including expansion - Boone County

F. FINANCE AND ADMINISTRATION CABINET

Budget Unit	2002-03	2003-04
1. Department for Administration		
a. Franklin County - Lease		
2. Department for Facilities Management		
a. Statewide Land Acquisition		
Capital Construction and Equipment Purchase Contingency Fund	1,800,000	
b. Capitol Historic Restoration/Asbestos Removal/Repair - State Office Building		
Reauthorization/Reallocation (6,000,000 - Bond Funds)		
c. Energy Efficiency in State Government Buildings Revolving Loan Fund		
Restricted Funds	1,075,000	
d. Guaranteed Energy Performance Projects Pool		
e. Maintenance Pool		
Investment Income	8,064,000	4,400,000
Restricted Funds	240,000	100,000
TOTAL	8,304,000	4,500,000
f. Install Building Security Systems - Various Buildings		
Restricted Funds	750,000	
g. Capital Construction and Equipment Purchase Contingency Fund		
Restricted Funds	3,350,000	
h. Emergency Repair, Maintenance and Replacement Fund		
Restricted Funds	4,195,000	
3. Lottery Corporation		
a. Network Storage and Associated Infrastructure		
Other Funds	930,000	
b. Contingency on Property Adjacent to New Headquarters		
Other Funds	3,500,000	
c. Data Processing, Telecommunication, and Related Equipment		
Other Funds	3,500,000	
d. Potential Buyout of On-Line Gaming System		
Other Funds	18,450,000	
e. Instant Ticket Vending Machine		
Other Funds	900,000	900,000
f. Pull Tab Ticket Vending Machines		
Other Funds	1,500,000	1,500,000

The Kentucky Lottery Corporation may acquire properties related to the consolidation of the Kentucky Lottery's facilities assuming one or more of the properties becomes available for purchase. The purchase price of the properties shall not exceed $2,500,000 in the aggregate.

G. CABINET FOR HEALTH SERVICES

Budget Unit	2002-03	2003-04
1. Department for Mental Health/Mental Retardation Services		
a. Miscellaneous Roof Replacement/Repair Pool		

Capital Construction and Equipment Purchase Contingency Fund	700,000	
b. Statewide Chiller Replacement Pool		
Capital Construction and Equipment Purchase Contingency Fund	612,000	
c. Franklin County - Lease		
d. Maintenance Pool		
Investment Income	1,840,000	1,840,000
e. Water Piping Replacement System - Eastern State Hospital/Veterans Hospital Relocation		
Reauthorization & Reallocation		
Capital Construction Surplus - Additional250,000		
f. Sprinkler System - Western State Hospital		
Capital Construction and Equipment Purchase Contingency Fund	2,200,000	
g. Structural Repair/Renovation - Oakwood		
Capital Construction Surplus	2,009,000	
h. Sprinkler System - Central State Hospital		
Investment Income	850,000	
i. Veterans Administration Hospital - Lease		
2. Public Health		
a. Kentucky All Schedule Prescription Electronic Reporting		
Capital Construction and Equipment Purchase Contingency Fund	1,474,000	

H. JUSTICE CABINET

Budget Unit	2002-03	2003-04
1. Department of State Police		
a. Purchase of Equipment for DNA Analysis		
Restricted Funds	136,000	136,000
b. Maintenance Pool		
Investment Income	250,000	250,000
2. Department of Juvenile Justice		
a. Combined Residential/Detention Facility - Hardin -Additional		
Federal Funds	1,000,000	
b. Secure Juvenile Detention Facility #3 - Boyd - Additional		
Federal Funds	500,000	
c. Maintenance Pool		
Investment Income	500,000	500,000
d. Purchase Land/Build Gym/Class Cadet Leadership/Education Program		
Restricted Funds	130,000	
Federal Funds	1,170,000	
TOTAL	1,300,000	
e. Add Classrooms - Green River Youth Development Center		

Restricted Funds	60,000	
Federal Funds	540,000	
TOTAL	600,000	
3. Department of Criminal Justice Training		
a. Law Enforcement Training Complex - Furniture - Equipment		
Agency Bonds		1,500,000
4. Corrections Management		
a. Replace/Repair Roofs - Green River Correctional Complex		
Capital Construction and Equipment Purchase Contingency Fund	2,500,000	
b. Replace Underground Steam & Condensate Lines - Blackburn Correctional Complex		
Bond Funds		1,260,000
c. Replace Fire Alarm System - Luther Luckett Correctional Complex		
Capital Construction and Equipment Purchase Contingency Fund	1,000,000	
d. Replace Dorm Roofs - Northpoint Training Center		
Bond Funds		600,000
e. Replace Four Color Heidelberg Printing Press		
Restricted Funds	900,000	
f. Purchase Plascon Bagmaking Machine		
Restricted Funds	160,000	
g. Various Adult Correctional Institutions (Guaranteed Energy Performance Contract)		
h. Maintenance Pool		
Investment Income	2,000,000	2,000,000
i. New Medium Security Facility/Design Elliott County Phase II Reauthorization and Reallocation (1,800,000 - Bond Funds)		
j. Fayette County - Lease		
k. Boot Camp/Substance Abuse Treatment Center-Roederer Correctional Complex Reauthorization and Reallocation (1,004,000 - Bond Funds)		
5. Justice Administration		
a. Purchase 2 Gas/Liquid Chromatograph Mass/Spectrometers		
Capital Construction Surplus	250,000	

I. LABOR CABINET

Budget Unit	2002-03	2003-04
1. General Administration and Support		
a. Franklin County - Lease		
2. Workers' Claims		
a. Franklin County - Lease		

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Budget Unit	2002-03	2003-04
1. General Administration and Support		
a. KY Heritage Land Conservation		
Restricted Funds	3,000,000	3,000,000
Federal Funds	1,000,000	1,000,000
TOTAL	4,000,000	4,000,000
b. Maintenance Pool		
Investment Income	115,000	115,000
2. Department for Environmental Protection		
a. Hazardous Waste Management Fund		
Restricted Funds	2,100,000	2,100,000
b. Leaking Underground Storage Tanks		
Restricted Funds	500,000	500,000
c. State-Owned Dam Repair - Additional		
Deferred Maintenance	1,000,000	
d. Franklin County - Lease (Water)		
e. Franklin County - Lease (Air Quality)		
f. Construct Deep Well Monitoring - Maxey Flats		
Capital Construction and Equipment Purchase Contingency Fund	500,000	
3. Department for Surface Mining Reclamation and Enforcement		
a. Franklin County - Lease		
4. Kentucky Nature Preserves Commission		
a. KY Nature Preserves Acquisition		
Other Funds	300,000	300,000

K. PERSONNEL CABINET

Budget Unit	2002-03	2003-04
1. Personnel		
a. Franklin County - Lease		
b. Computer Equipment - Kentucky Employees' Self-Service Project		
Capital Construction Surplus	200,000	

L. POSTSECONDARY EDUCATION

Budget Unit	2002-03	2003-04
1. Council on Postsecondary Education		
a. Agency Bond Pool		
Agency Bonds	66,800,000	
b. Franklin County - Lease		
c. Research Challenge Trust Fund - Endowment Match		
Bond Funds	100,000,000	
d. Regional University Excellence Trust Fund - Endowment Match		
Bond Funds	20,000,000	
2. Kentucky Higher Education Assistance Authority		
a. Upgrade Information Technology Systems		
Restricted Funds	650,000	
b. Franklin County - Lease		
c. KY Higher Education Student Loan Corporation Lease - Jefferson County		

3.	Eastern Kentucky University		
	a.	Maintenance Pool	
		Restricted Funds	10,000,000
	b.	E & G Life Safety Begley Elevator	
		Restricted Funds	750,000
	c.	Various Buildings (Guaranteed Energy Savings Project)	
	d.	Expand, Upgrade Campus Data Network	
		Restricted Funds	1,000,000
	e.	Purchase Network Education System Component	
		Restricted Funds	2,050,000
	f.	Upgrade Academic Computing	
		Restricted Funds	1,000,000
	g.	Upgrade Administrative Computing System	
		Restricted Funds	1,100,000
	h.	Property Acquisition	
		Restricted Funds	3,000,000
	i.	Replace Student Housing, Brockton	
		Restricted Funds	8,250,000
	j.	Expand and Renovate Presnell Building	
		Restricted Funds	2,000,000
	k.	Expand Indoor Tennis Facility	
		Restricted Funds	1,000,000
	l.	Watts Property (Elmwood) Renovation	
		Restricted Funds	2,000,000
	m.	Greek Row	
	Reauthorization		
4.	Kentucky State University		
	a.	Renovate and Expand Student Center	
		Reauthorization	
		Restricted Funds - Additional	4,400,000
	b.	Young Hall Renovation	
		Reauthorization	
		Restricted Funds - Additional	6,214,000
	c.	Capital Renewal and Deferred Maintenance Pool	
		Restricted Funds	1,500,000
	d.	Migrate to Client-Server and Laptop Campus Technology	
		Restricted Funds	860,000
	e.	Enhance Distance Education	
		Restricted Funds	560,000
	f.	Extend Fiber Network to South Campus	
		Restricted Funds	806,000
	g.	Enhance Web Site	
		Restricted Funds	410,000
	h.	Implement Smart Card Technology	
		Restricted Funds	1,120,000
	i.	Various Buildings (Guaranteed Energy Savings Project)	

	j.	Cooperative Extension Building Expansion		
		Reauthorization		
		Restricted Funds - Additional	3,224,000	
5.	Morehead State University			
	a.	Capital Renewal and Deferred Maintenance Pool		
		Restricted Funds	3,414,000	3,414,000
	b.	Life Safety: Auxiliary Facilities		
		Restricted Funds	3,000,000	
	c.	Parking Structure		
		Restricted Funds	6,000,000	
	d.	Life Safety: E & G Facilities		
		Restricted Funds	1,350,000	
	e.	Life Safety: Claypool-Young Building		
		Restricted Funds	500,000	
	f.	Americans with Disabilities Act - E & G		
		Restricted Funds	600,000	600,000
	g.	Combs Theatre Area Reclamation		
		Restricted Funds	1,100,000	
	h.	Button Auditorium Renovation		
		Restricted Funds	3,000,000	
	i.	Various Buildings		
		(Guaranteed Energy Savings Project)		
		(FY 2002)		
	j.	Americans with Disabilities Act - Auxiliary		
		Restricted Funds	600,000	600,000
	k.	Land Acquisitions Related to Master Plan		
		Restricted Funds	2,000,000	
	l.	Instructional Technology Initiatives		
		Restricted Funds	2,159,000	
	m.	HPLC-Mass Spectrometer		
		Restricted Funds	140,000	
	n.	Instructional and Support Equipment		
		Restricted Funds	1,334,000	
	o.	Nuclear Magnetic Resonance Equipment		
		Restricted Funds	210,000	
	p.	Network/Infrastructure Resources		
		Restricted Funds	2,250,000	
	q.	Library Automation Resources		
		Restricted Funds	750,000	
	r.	Distance Learning Systems		
		Restricted Funds	2,500,000	
	s.	Compressed Video Resources		
		Restricted Funds	1,891,000	
	t.	Instructional PC's/LANS/Peripherals		
		Restricted Funds	2,500,000	
	u.	Administrative Office Systems		
		Restricted Funds	2,000,000	
	v.	Central Campus Reconstruction		

		Restricted Funds	780,000
	w.	Student Wellness Center Expansion	
		Restricted Funds	700,000
	x.	Kentucky Center for Traditional Music - Phase I	
		Restricted Funds	1,000,000
	y.	Construction of Family Housing Complexes - Phase II	
		Restricted Funds	4,000,000
	z.	Tour Bus	
		Restricted Funds	400,000
6.		Murray State University	
	a.	Construct Recreation/Wellness Center	
		Restricted Funds	10,000,000
	b.	Equine Instruction Facility Addition	
		Restricted Funds	650,000
	c.	Various Buildings (Guaranteed Energy Savings Project)	
	d.	Campus Electrical Distribution System Upgrade	
		Restricted Funds	10,765,000
	e.	Construct New Dormitories	
		Restricted Funds	10,154,000
	f.	Woods Hall Mechanical and HVAC System Upgrade	
		Restricted Funds	2,000,000
	g.	Land Acquisition	
		Restricted Funds	500,200
	h.	Elizabeth Hall Asbestos Ceilings	
		Restricted Funds	450,000
	i.	Hester Hall Asbestos Ceilings	
		Restricted Funds	450,000
	j.	College Courts Renovation	
		Restricted Funds	3,636,000
	k.	College Courts Interiors (12 Buildings) Renovation	
		Restricted Funds	2,000,000
	l.	Clark Hall Replacement	
		Restricted Funds	8,000,000
	m.	Clark Hall Water Piping, Fixtures Replacement	
		Restricted Funds	600,000
	n.	Replace Richmond Hall	
		Restricted Funds	8,000,000
	o.	College Courts Electrical System Upgrade	
		Restricted Funds	1,200,000
	p.	Franklin Hall Replacement	
		Restricted Funds	8,000,000
	q.	Heating and Cooling Plant Boiler Replacement	
		Restricted Funds	666,000
	r.	Sparks Hall Electrical System Upgrade	
		Restricted Funds	952,000
	s.	Wells Hall Electrical System Upgrade	
		Restricted Funds	600,000

t.	Applied Science Electrical System Upgrade	
	Restricted Funds	850,000
u.	Renovate Sparks Hall HVAC System	
	Restricted Funds	500,000
v.	Special Education HVAC System	
	Restricted Funds	500,000
w.	Pogue Library Electric and HVAC Renovation	
	Restricted Funds	750,000
x.	Business Building Electricity, HVAC and Classrooms Phase I	
	Restricted Funds	1,530,000
y.	General Services HVAC System Renovation	
	Restricted Funds	500,000
z.	E & G Chiller/CFC Compliance Replacement	
	Restricted Funds	585,000
aa.	Doyle Fine Arts HVAC and Energy Replacement/Retrofit	
	Restricted Funds	750,000
ab.	Richmond Hall (Residential College) Renovation	
	Restricted Funds	2,500,000
ac.	Richmond Hall Interior Renovation	
	Restricted Funds	500,000
ad.	Richmond Hall Water Piping/Fixtures Replacement	
	Restricted Funds	600,000
ae.	Clark Hall Interior Renovation	
	Restricted Funds	500,000
af.	Clark Hall Electrical System Renovation	
	Restricted Funds	400,000
ag.	Clark Hall HVAC System Renovation	
	Restricted Funds	1,000,000
ah.	Franklin Hall HVAC System Renovation	
	Restricted Funds	1,000,000
ai.	Franklin Hall Electrical System Renovation	
	Restricted Funds	400,000
aj.	Franklin Hall Water Piping, Fixtures Replacement	
	Restricted Funds	600,000
ak.	Franklin Hall Interior Renovation	
	Restricted Funds	600,000
al.	Springer Hall HVAC and Electrical System Renovation	
	Restricted Funds	2,000,000
am.	Richmond Hall Electrical System Renovation	
	Restricted Funds	400,000
an.	Springer Hall Water Piping, Fixtures Replacement	
	Restricted Funds	800,000
ao.	Springer Hall Interior Renovation	
	Restricted Funds	600,000
ap.	Hart Hall Renovation	
	Restricted Funds	5,000,000
aq.	Hart Hall Chiller, Boilers, Towers Replacement	
	Restricted Funds	1,200,000

ar.	Hart Hall Electrical System Renovation	
	Restricted Funds	650,000
as.	Elizabeth Hall Electrical System Renovation	
	Restricted Funds	550,000
at.	Hester Hall HVAC System Renovation	
	Restricted Funds	1,000,000
au.	Hester Hall Interior Renovation	
	Restricted Funds	700,000
av.	Hester Hall Boiler, Water Heater Replacement	
	Restricted Funds	600,000
aw.	Hester Hall Electrical System Renovation	
	Restricted Funds	580,000
ax.	Winslow Cafeteria Mechanical Equipment Replacement	
	Restricted Funds	500,000
ay.	Winslow Cafeteria Exterior Repair	
	Restricted Funds	500,000
az.	Elizabeth Hall HVAC System Renovation	
	Restricted Funds	1,200,000
ba.	White Hall Domestic Water Piping Replacement	
	Restricted Funds	500,000
bb.	White Hall HVAC System Renovation	
	Restricted Funds	1,000,000
bc.	White Hall Electrical System Renovation	
	Restricted Funds	600,000
bd.	White Hall Interior Renovation	
	Restricted Funds	700,000
be.	Regents Hall Domestic Water Piping Replacement	
	Restricted Funds	500,000
bf.	Regents Hall HVAC System Renovation	
	Restricted Funds	1,000,000
bg.	Regents Hall Electrical System Renovation	
	Restricted Funds	650,000
bh.	Regents Hall Interior Renovation	
	Restricted Funds	800,000
bi.	Hart Hall Interior Renovation	
	Restricted Funds	1,200,000
bj.	Elizabeth Hall Interior Renovation	
	Restricted Funds	700,000
bk.	Capital Renewal and Deferred Maintenance Pool	
	Restricted Funds	16,885,000
bl.	Telephone Switching System Replacement	
	Restricted Funds	1,000,000
bm.	Waterfield Library HVAC and Mechanical Replacement	
	Restricted Funds	500,000
bn.	Campus Network to Gigabit Ethernet Upgrade	
	Restricted Funds	1,000,000
bo.	Lovett Auditorium Shell/Seats Replacement and Repair	
	Restricted Funds	550,000

bp.	350-Ton Chiller - Regional Special Events Center	
	Restricted Funds	400,000
bq.	COLT Ubiquitous Computing	
	Restricted Funds	434,000
br.	Baseball Field and Stadium Sidewalk Light	
	Restricted Funds	600,000
bs.	BVC Electron Microscope - Scanning	
	Restricted Funds	300,000
bt.	BVC Electron Microscope - Transmission	
	Restricted Funds	250,000
bu.	Broadcasting Education Lab Equipment	
	Restricted Funds	200,000
bv.	Business and Public Affairs Equipment	
	Restricted Funds	300,000
bw.	Central On-Line Storage System	
	Restricted Funds	966,000
bx.	College of Science Instructional/Research Equipment	
	Restricted Funds	300,000
by.	Fine Arts Studio Equipment	
	Restricted Funds	419,000
bz.	ICP-MS Fisions Instruments	
	Restricted Funds	142,000
ca.	Music Computer Equipment	
	Restricted Funds	250,000
cb.	Optics Lab Equipment	
	Restricted Funds	170,000
cc.	Recording/Playback Lab & Instrument	
	Restricted Funds	188,000

7. Northern Kentucky University

a.	New Student Union Design	
	Restricted Funds	1,200,000
b.	Power Distribution Infrastructure Replacement	
	Restricted Funds	700,000
c.	Structure in AS and T Center Repair	
	Restricted Funds	500,000
d.	Welcome Center Renovation	
	Restricted Funds	700,000
e.	Capital Renewal and Maintenance Projects	
	Restricted Funds	2,315,000
f.	Land Acquisition	
	Restricted Funds	2,500,000
g.	Central Plaza Reconstruction	
	Restricted Funds	900,000
h.	Digital Telecom System	
	Restricted Funds	1,900,000
i.	Baseball Field Relocation	
	Restricted Funds	1,500,000
j.	Information Technology Infrastructure	

		Restricted Funds	2,700,000	
	k.	Administrative Application System		
		Restricted Funds	2,500,000	
	l.	Intramural Sports Field		
		Restricted Funds	750,000	
	m.	Coach Bus		
		Restricted Funds	375,000	
	n.	Color Press		
		Restricted Funds	235,000	
	o.	NMR Spectrometer		
		Restricted Funds	385,000	
	p.	Various Buildings (Guaranteed Energy Savings Project)		
	q.	New Residence Hall		
		Reauthorization		
	r.	Construct Parking Deck		
		Restricted Funds	9,100,000	
	s.	Metropolitan Education and Training Center - Lease		
8.		University of Kentucky		
	a.	Early Childhood Education Lab		
		Restricted Funds	8,000,000	
	b.	Replace Oswald Building Roof		
		Restricted Funds	1,089,000	
	c.	Improve Storm Sewer Funkhouser		
		Restricted Funds	1,003,000	
	d.	Renovate Agriculture Building North Facade		
		Restricted Funds	3,820,000	
	e.	Renovate King South Building I		
		Restricted Funds		8,025,000
	f.	Upgrade Vivarium, I		
		Restricted Funds		4,000,000
	g.	Replace Central Fire Alarm System		
		Restricted Funds		3,000,000
	h.	Replace Central Facilities Management System		
		Restricted Funds		3,000,000
	i.	Replace Steam and Condensate Pipe		
		Restricted Funds		5,350,000
	j.	Improve Central Heating Plant		
		Restricted Funds		2,750,000
	k.	Replace Master Clock and Bell System		
		Restricted Funds		1,500,000
	l.	Replace High Voltage Wiring		
		Restricted Funds		441,000
	m.	Replace Three Elevators MIK Library South		
		Restricted Funds		742,000
	n.	Abate Mercury Lexington Campus - Life Safety		
		Restricted Funds	1,000,000	
	o.	Upgrade Fume Hoods -LC - Life Safety		

	Restricted Funds	7,015,000	
p.	Upgrade Pharmacy Fume Hood I - Life Safety		
	Restricted Funds	4,300,000	
q.	Abate Asbestos LC II - Life Safety		
	Restricted Funds	500,000	
r.	Improve Indoor Air Quality - Phase I - Life Safety		
	Restricted Funds		500,000
s.	Upgrade HVAC - CAER Ph. III - Life Safety		
	Restricted Funds		450,000
t.	Improve Barker Hall - Life Safety		
	Restricted Funds		500,000
u.	Improve Life Safety, Project Pool		
	Restricted Funds		3,708,000
v.	Renovate Livestock Disease Diagnostics Laboratory		
	Restricted Funds		2,800,000
w.	Improve Handicapped Access, Project Pool		
	Restricted Funds		1,908,000
x.	Improve Plant - Capital Renewal Pool		
	Restricted Funds	16,388,000	
y.	Construct Environmental Institute		
	Restricted Funds		12,604,000
z.	Renovate the COHR in the Dental Building		
	Restricted Funds		1,875,000
aa.	Install Chilled Water Pipe-Clg 2 to Pit		
	Restricted Funds		1,300,000
ab.	Install Cooling Secondary Pumping		
	Restricted Funds		2,250,000
ac.	Renovate Medical Center Library		
	Restricted Funds		2,000,000
ad.	Install Medical Center Chilled Water Loop		
	Restricted Funds		625,000
ae.	Expand Plant Capacity/Infrastructure		
	Restricted Funds	15,000,000	
af.	Renovate Education Space in Medical Science		
	Restricted Funds		2,300,000
ag.	Renovate Outpatient Clinic in Kentucky Clinic		
	Restricted Funds		2,000,000
ah.	Replace Cooling Plant Chillers		
	Restricted Funds		5,000,000
ai.	Install HVAC in Keeneland Hall		
	Restricted Funds		2,962,000
aj.	Renovate Cooperstown - Phase IVA		
	Restricted Funds		1,279,000
ak.	Install HVAC in Jewell Hall		
	Restricted Funds		1,290,000
al.	Install HVAC in Boyd Hall		
	Restricted Funds		1,715,000
am.	Renovate Labs in the Pharmacy Building		

	Restricted Funds		1,400,000
an.	Renovate Cooperstown - Phase IV		
	Restricted Funds		426,000
ao.	Renovate Parking Structure #1		
	Restricted Funds		7,714,000
ap.	Replace Holmes Elevator		
	Restricted Funds		585,000
aq.	Construct Parking Structure		
	Restricted Funds		16,280,000
ar.	Expand Patient Parking in Structure #3		
	Restricted Funds		7,000,000
as.	Install HVAC in Holmes Hall		
	Restricted Funds		1,700,000
at.	Acquire Land		
	Restricted Funds	15,000,000	
au.	Renovate Running Track		
	Restricted Funds	2,500,000	
av.	Renovate Research Labs in Medical Center, I		
	Restricted Funds		750,000
aw.	Fit-up Research Labs - Allied Health Building		
	Restricted Funds		7,000,000
ax.	Renovate Research Labs in Medical Center, II		
	Restricted Funds		900,000
ay.	Renovate Research Space-Nursing Building		
	Restricted Funds		540,000
az.	Upgrade Communication Infrastructure, II		
	Restricted Funds		450,000
ba.	Renovate Research Space Medical Center, I		
	Restricted Funds		800,000
	Federal Funds		700,000
	TOTAL		1,500,000
bb.	Lease Purchase Campus Infrastructure Upgrade		
	Restricted Funds		3,500,000
bc.	Lease Purchase High Performance Research Computer		
	Restricted Funds	5,000,000	
bd.	Lease Purchase Computing Facility Uninterruptable Power Supply		
	Restricted Funds	400,000	
be.	Lease Purchase Large Scale Computing		
	Restricted Funds	3,500,000	
bf.	Lease Purchase Networked Printer		
	Restricted Funds	200,000	
bg.	Lease Purchase Pool		
	Restricted Funds		10,401,000
bh.	Lease Purchase Telephone Switch		
	Restricted Funds		3,000,000
bi.	Lease Purchase Video Switch		
	Restricted Funds	250,000	
bj.	3-D Scaling Device		

	Federal Funds		100,000
bk.	ABI Prism Sequence Detection System		
	Restricted Funds		100,000
bl.	Analytical Biosensor		
	Restricted Funds	275,000	
bm.	Area Detector Diffractometer		
	Restricted Funds	155,000	
	Federal Funds	155,000	
	TOTAL	310,000	
bn.	Automated DNA Sequencer		
	Restricted Funds	130,000	
bo.	Behavioral Monitoring & Analysis System		
	Restricted Funds	150,000	
bp.	Campus Call Auto Dial		
	Restricted Funds	125,000	
bq.	Capillary Genetic Analyzers		
	Restricted Funds	800,000	
br.	Chain Reaction Analyzer		
	Restricted Funds	150,000	
bs.	Chromatograph Mass Spectrometer, I		
	Restricted Funds	250,000	
bt.	Chromatograph Mass Spectrometer, II		
	Restricted Funds	258,000	
bu.	Combination Metabolic Analyzer		
	Restricted Funds	123,000	
bv.	Compressed Video-Hazard		
	Restricted Funds	141,000	
bw.	Confocal Microscope		
	Restricted Funds	325,000	
bx.	Confocal Microscope		
	Restricted Funds	200,000	
by.	Database Testbed		
	Restricted Funds	225,000	
bz.	Digital Router		
	Restricted Funds	100,000	
ca.	DNA Chip Analysis System		
	Restricted Funds		160,000
cb.	DNA Microarray Chip Reader		
	Federal Funds		450,000
cc.	DNA Microarray Facility		
	Restricted Funds	300,000	
cd.	DNA Microarray System		
	Restricted Funds		285,000
ce.	DNA Sequencer		
	Restricted Funds	135,000	
cf.	DNA Sequencer		
	Restricted Funds	125,000	
cg.	DNA Sequencer, I		

	Restricted Funds	134,000	
ch.	DNA Sequencer, II		
	Restricted Funds	158,000	
ci.	DNA Sequencer/Genetic Analyzer		
	Restricted Funds	110,000	
cj.	DNA Synthesizer		
	Restricted Funds	103,000	
ck.	Electron Spin Resonance Instrument		
	Restricted Funds	100,000	
	Federal Funds	100,000	
	TOTAL	200,000	
cl.	Electrophysiologic Analysis System		
	Restricted Funds	207,000	
cm.	Encapsulator		
	Restricted Funds	151,000	
cn.	Environmental Test System		
	Restricted Funds	125,000	
co.	Epi-Fluorescence Microscope		
	Restricted Funds	134,000	
cp.	ESCA-X-Ray Photoelectron Spectroscopy		
	Restricted Funds	400,000	
cq.	Flow Cytometer		
	Restricted Funds	108,000	
cr.	Flow Cytometry Lab Equipment		
	Restricted Funds	375,000	
cs.	Fluorescent Microscope & Image Analyzer		
	Restricted Funds	150,000	
ct.	Fluorescent (Luminescent) Imaging System		
	Restricted Funds	105,000	
cu.	Fluorescence Activated Cell Sorter		
	Restricted Funds	200,000	
cv.	Fluorescent Analyzer		
	Restricted Funds	109,000	
cw.	Fluorescent Activated Cell Sorter		
	Restricted Funds	237,000	
cx.	Fluorescent Cell Sorter		
	Restricted Funds	200,000	
cy.	Forage Harvester System		
	Restricted Funds	150,000	
cz.	Freeze-Thaw Apparatus		
	Restricted Funds		100,000
da.	Garbage Truck Front Loader		
	Restricted Funds	165,000	
db.	Gas Analyzer		
	Restricted Funds	100,000	
dc.	Gas Chromatograph Mass Spectrometer		
	Restricted Funds		101,000
dd.	Gas Chromatograph/MSD		

	Restricted Funds	110,000	
de.	Gas Chromatograph Mass Spectrograph		
	Restricted Funds		186,000
df.	Gene Chip Analysis Machine		
	Restricted Funds		250,000
dg.	Gene Chip Instrument System		
	Restricted Funds	450,000	
dh.	Genetic Analyzer		
	Restricted Funds		140,000
di.	GIS Teaching Lab		
	Restricted Funds	160,000	
dj.	GVG Video Switch		
	Restricted Funds	250,000	
dk.	High Performance Liquid Chromatography		
	Restricted Funds	131,000	
dl.	High Power CO2 Laser		
	Restricted Funds		250,000
dm.	High Pressure Liquid Chromatograph		
	Restricted Funds		100,000
	Federal Funds		100,000
	TOTAL		200,000
dn.	High Resolution Optical Microscope		
	Restricted Funds	110,000	
do.	High Resolution Phosophor Imager		
	Restricted Funds	206,000	
dp.	High Temperature Optical Microscope		
	Restricted Funds		105,000
dq.	High-Speed Signal Processor		
	Federal Funds	150,000	
dr.	Holographic System/Image Analyzer		
	Restricted Funds		110,000
ds.	HPLC Mass Spectrophotometer		
	Restricted Funds	220,000	
dt.	Image Analysis System		
	Restricted Funds	206,000	
du.	Image Analyzer System		
	Restricted Funds	206,000	
dv.	Inductive Coupled Plasma Spectrometer		
	Restricted Funds		110,000
dw.	Inductive Coupled Plasma Unit		
	Restricted Funds	110,000	
dx.	Inductive Coupled Spectrometer System		
	Restricted Funds		120,000
dy.	Interaction Analyzer		
	Restricted Funds	150,000	
dz.	Inverted Microscope-Fluoroscope		
	Restricted Funds	155,000	
ea.	Inverted Scope		

	Restricted Funds		100,000
eb.	Laser Confocal Microscope		
	Restricted Funds	312,000	
ec.	Laser System		
	Restricted Funds	125,000	
	Federal Funds	125,000	
	TOTAL	250,000	
ed.	LCT Flight Mass Spectrometer		
	Restricted Funds	220,000	
ee.	LIMS Bioinformatics Equipment		
	Federal Funds		136,000
ef.	Liquid Chromatograph		
	Restricted Funds		105,000
eg.	Liquid Chromotograph-Mass Spectrometer		
	Restricted Funds		320,000
eh.	Liquid Filling/Stoppering Line		
	Restricted Funds	351,000	
ei.	Mass Spectrometer		
	Restricted Funds		400,000
ej.	MB Ultracentrifuge		
	Restricted Funds	354,000	
ek.	MB/GT Phospho-Imager		
	Restricted Funds	128,000	
el.	Multiphoton Imaging System		
	Restricted Funds	505,000	
em.	Multiphoton Scanning Microscope		
	Restricted Funds	300,000	
en.	Multiunit Microbial Chamber		
	Restricted Funds	250,000	
eo.	NIR Spectrophotometer		
	Restricted Funds	125,000	
ep.	Open MRI Unit		
	Restricted Funds		1,000,000
eq.	Optical Disk Server		
	Restricted Funds		180,000
er.	Patient Classification Equipment		
	Restricted Funds		260,000
es.	Physiology Workstation		
	Restricted Funds	101,000	
et.	Protein Synthesizer		
	Restricted Funds		206,000
eu.	Quadrapole Mass Spectrometer		
	Restricted Funds	360,000	
ev.	Rapid Scanning Monochrometer		
	Restricted Funds		130,000
ew.	Research Grade Light Microscope		
	Restricted Funds		103,000
ex.	Scanning Electron Microscope		

	Restricted Funds	175,000	
ey.	Semi-solid Manufacturing Equipment		
	Restricted Funds		211,000
ez.	Sequence Detection System		
	Restricted Funds		100,000
fa.	Spectograph for Oligonucleotide Analysis		
	Restricted Funds	250,000	
fb.	Studio Recording Equipment		
	Restricted Funds		113,000
fc.	Telemedicine Rural Health		
	Restricted Funds		416,000
fd.	Telemedicine Systems		
	Restricted Funds		600,000
fe.	Terminal Sterilizing Autoclave		
	Restricted Funds		221,000
ff.	Ultracentrifuge		
	Restricted Funds	117,000	
fg.	Virtual Environment Simulator		
	Restricted Funds		125,000
fh.	X-Ray Defractometer		
	Federal Funds		700,000
fi.	Upgrade Scanner System		
	Restricted Funds		500,000
fj.	Upgrade HVAC II - Hospital		
	Restricted Funds	3,500,000	
fk.	Renovate Roach Building 4th Floor - Hospital		
	Restricted Funds	3,990,000	
fl.	Consolidate Imaging Services - Hospital		
	Restricted Funds		3,675,000
fm.	Construct Storage/Distribution Center - Hospital		
	Restricted Funds		1,019,000
fn.	Construct Limited-stay Facility - Hospital		
	Restricted Funds		5,460,000
fo.	Renovate Kitchen I - Hospital		
	Restricted Funds	1,050,000	
fp.	Implement Land Use Plan III - Hospital		
	Restricted Funds	2,625,000	
fq.	Construct Parking Structure III - Hospital		
	Restricted Funds		7,350,000
fr.	Protect Environment II - Hospital		
	Restricted Funds	1,575,000	
fs.	Upgrade Transport Systems IV - Hospital		
	Restricted Funds	735,000	
ft.	Modify Nursing Unit XI - Hospital		
	Restricted Funds	1,100,000	
fu.	Modify Nursing Unit XII - Hospital		
	Restricted Funds		3,500,000
fv.	Upgrade Diagnostic Services XI - Hospital		

	Restricted Funds	1,500,000	
fw.	Construct Outpatient Services III - Hospital		
	Restricted Funds	4,700,000	
fx.	Upgrade Diagnostic Services XII - Hospital		
	Restricted Funds		1,000,000
fy.	Implement Land Use Plan IV - Hospital		
	Restricted Funds		2,500,000
fz.	Upgrade Transport Systems V - Hospital		
	Restricted Funds		800,000
ga.	Expand Data Systems III - Hospital		
	Restricted Funds	700,000	
gb.	Upgrade Support Services II - Hospital		
	Restricted Funds	1,172,000	
gc.	Upgrade Nutrition Services II - Hospital		
	Restricted Funds	1,000,000	
gd.	Upgrade Utility Systems VI - Hospital		
	Restricted Funds		1,500,000
ge.	Upgrade Building/Site IV - Hospital		
	Restricted Funds		800,000
gf.	Expand Parking II - Hospital		
	Restricted Funds	3,200,000	
gg.	Construct Patient Care Facility II - Hospital		
	Restricted Funds	7,638,000	
gh.	Construct Primary Care Center II - Hospital		
	Restricted Funds		10,172,000
gi.	Construct Building Connectors III - Hospital		
	Restricted Funds	3,000,000	
gj.	Construct Outpatient Diagnostic/Treatment Facility II - Hospital		
	Restricted Funds	12,672,000	
gk.	Construct Outpatient Care Facility II - Hospital		
	Restricted Funds		6,172,000
gl.	Upgrade Communication Services - Hospital		
	Restricted Funds		1,000,000
gm.	Construct Business Facility II - Hospital		
	Restricted Funds		9,000,000
gn.	Create Universal Nursing Unit - Hospital		
	Restricted Funds	1,000,000	
go.	Design Patient Bed Tower - Hospital		
	Restricted Funds	10,000,000	
gp.	Expand Surgical Services - Hospital		
	Restricted Funds	3,200,000	
gq.	Accelerator		
	Restricted Funds	1,600,000	
gr.	Angiography Unit		
	Restricted Funds	1,740,000	
gs.	Angiography Unit		
	Restricted Funds	1,276,000	
gt.	ATL Ultrasound		

	Restricted Funds	220,000
gu.	Biplane Angiography	
	Restricted Funds	1,160,000
gv.	Cardiac Catheterization Image Management System	
	Restricted Funds	957,000
gw.	Cardiac Ultrasound	
	Restricted Funds	1,600,000
gx.	C-Arm X-Ray Unit	
	Restricted Funds	350,000
gy.	C-Arm X-Ray Unit	
	Restricted Funds	440,000
gz.	C-Arm X-Ray Unit	
	Restricted Funds	275,000
ha.	Clinical System Enterprise	
	Restricted Funds	5,800,000
hb.	Computing Infrastructure Update	
	Restricted Funds	2,500,000
hc.	CR PAC Server	
	Restricted Funds	275,000
hd.	CT Scanner	
	Restricted Funds	1,914,000
he.	CT Scanners	
	Restricted Funds	3,480,000
hf.	CT Simulator	
	Restricted Funds	1,160,000
hg.	CT Simulator	
	Restricted Funds	1,200,000
hh.	Data Storage Facility	
	Restricted Funds	750,000
hi.	Diagnostic Radiology Unit	
	Restricted Funds	330,000
hj.	Digital Medical Record Expansion	
	Restricted Funds	4,640,000
hk.	Digital Enhancement	
	Restricted Funds	1,085,000
hl.	Digital Imaging	
	Restricted Funds	957,000
hm.	Digital Orbitor Camera	
	Restricted Funds	275,000
hn.	Digital Radiology	
	Restricted Funds	4,060,000
ho.	Digital Radiology	
	Restricted Funds	1,020,000
hp.	EKG Unit	
	Restricted Funds	400,000
hq.	EKG Unit	
	Restricted Funds	440,000
hr.	Electrophysiology Lab	

	Restricted Funds	5,800,000
hs.	EMG Unit	
	Restricted Funds	250,000
ht.	Endoscopic Ultrasound	
	Restricted Funds	440,000
hu.	Endoscopic Video System	
	Restricted Funds	300,000
hv.	Endoscopic Video Ultrasound	
	Restricted Funds	275,000
hw.	Filmless System	
	Restricted Funds	150,000
hx.	Fluoroscopy Unit	
	Restricted Funds	550,000
hy.	General Radiology/Fluoroscopic Unit	
	Restricted Funds	550,000
hz.	General Radiology/Fluoroscopic Unit	
	Restricted Funds	500,000
ia.	Intracardiac Laser	
	Restricted Funds	500,000
ib.	Intracardiac Laser	
	Restricted Funds	550,000
ic.	Intraoperative Radiation Therapy	
	Restricted Funds	1,300,000
id.	Laboratory Analyzer	
	Restricted Funds	500,000
ie.	Linear Accelerator	
	Restricted Funds	2,050,000
if.	Managed Care Enterprise	
	Restricted Funds	1,160,000
ig.	Minimally Invasive Room	
	Restricted Funds	1,700,000
ih.	Mobile CT	
	Restricted Funds	1,100,000
ii.	Mobile CT	
	Restricted Funds	1,000,000
ij.	Mobile Fluoroscopic Unit	
	Restricted Funds	250,000
ik.	Mobile Radiology Unit	
	Restricted Funds	250,000
il.	MRI Upgrade	
	Restricted Funds	500,000
im.	Nuclear Medicine Camera	
	Restricted Funds	1,000,000
in.	OB Ultrasound	
	Restricted Funds	350,000
io.	OR Perioperative IS Document Systems Upgrade	
	Restricted Funds	150,000
ip.	Patient System Enterprise	

	Restricted Funds	4,640,000
iq.	Portal Imaging System	
	Restricted Funds	200,000
ir.	Portal Imaging System	
	Restricted Funds	250,000
is.	QuadRIS Upgrade	
	Restricted Funds	300,000
it.	Rad. Med. Software/System	
	Restricted Funds	350,000
iu.	Radiation Therapy Unit Upgrade	
	Restricted Funds	400,000
iv.	Radiographic Fluoroscopic Unit	
	Restricted Funds	200,000
iw.	Radiographic Fluoroscopic Unit	
	Restricted Funds	150,000
ix.	Radiographic Unit	
	Restricted Funds	400,000
iy.	Radiographic Unit	
	Restricted Funds	350,000
iz.	Radiology Ultrasound	
	Restricted Funds	440,000
ja.	SPECT System	
	Restricted Funds	1,000,000
jb.	Steam Autoclave	
	Restricted Funds	450,000
jc.	Sterrad Sterilizer	
	Restricted Funds	450,000
jd.	Surgical C-Arm (ISS) System	
	Restricted Funds	650,000
je.	Surgical Laser	
	Restricted Funds	500,000
jf.	Surgical Microscope	
	Restricted Funds	500,000
jg.	Teleradiology	
	Restricted Funds	200,000
jh.	Ultrasound Image Management	
	Restricted Funds	800,000
ji.	Upgrade - HIS Computing Facility	
	Restricted Funds	2,900,000
jj.	Upgrade for Servers	
	Restricted Funds	800,000
jk.	Vascular Ultrasound	
	Restricted Funds	300,000
jl.	Vascular Ultrasound	
	Restricted Funds	900,000
jm.	Washer	
	Restricted Funds	350,000
jn.	Various Buildings	

	(Guaranteed Energy Savings Project)	
jo.	Center for Rural Health	
	Reauthorization ($10,100,000 - Bond Funds)	
	Federal Funds - Additional	2,000,000
jp.	College of Medicine - Lease	
jq.	Medical Center Contract Sponsored Programs - Lease	
jr.	Medical Center Patient Facility - Lease	
js.	Medical Center Research Grants Projects - Lease	
jt.	Pharmacy Contracted Programs - Lease	
ju.	Center for Rural Health - Lease	
jv.	Kentucky Utilities Building - Lease	
	(FY 2001-2002)	
jw.	Agricultural Plant Science Facility	
	Reauthorization	
	Restricted Funds - Additional	1,300,000
jx.	Business and Economic Complex	
	Restricted Funds	1,000,000
jy.	Apartment Complex - Purchase	
	Restricted Funds	10,500,000
9.	University of Louisville	
a.	Expand - Research Resources Center	
	Restricted Funds	2,596,000
	Other Funds	7,787,000
	TOTAL	10,383,000
b.	Property Acquisition	
	Restricted Funds	1,300,000
c.	Construct - Boathouse for Women's Rowing	
	Other Funds	2,488,000
d.	Field Turf - Practice Field Facility	
	Other Funds	750,000
e.	Expand-Oppenheimer Hall for Social Work	
	Other Funds	5,450,000
f.	Expand - Cardinal Arena in Student Activities Center	
	Other Funds	4,000,000
g.	Renovate - Dental Clinic and Sterilization	
	Other Funds	3,637,000
h.	Renovate - K-Wing 2nd and 4th Floors	
	Restricted Funds	1,040,000
i.	Expand - Ekstrom Library - New Wing	
	Federal Funds	14,000,000
j.	Construct - Residence Hall - 400 Beds, Phase I	
	Other Funds	19,718,000
k.	Parking Spaces - Health Sciences	
	Restricted Funds	825,000
l.	Renovate - MDR Building, Phase IV	
	Restricted Funds	2,530,000
m.	Renovate - Stoddard Johnston - Married Students	
	Other Funds	5,829,000

n.	Plasmon Resonance Instrument	
	Restricted Funds	250,000
o.	High Resolution Mass Spectrometer	
	Federal Funds	1,150,000
p.	Flow Fluorescence Activated Cell	
	Restricted Funds	130,000
q.	Microcalorimeter	
	Restricted Funds	140,000
r.	Confocal Microscope	
	Restricted Funds	280,000
s.	Neuro Scan ESI - 128:128 Channel	
	Restricted Funds	100,000
	Federal Funds	40,000
	TOTAL	140,000
t.	Laser Microfabrication Lab	
	Restricted Funds	275,000
	Federal Funds	250,000
	TOTAL	525,000
u.	X-Ray Diffraction Module	
	Restricted Funds	500,000
	Federal Funds	250,000
	TOTAL	750,000
v.	Particle Imaging Velocimetry (PIV)	
	Restricted Funds	167,000
w.	Confocal Laser Scanning Microscope	
	Restricted Funds	400,000
x.	CNC Grinding Machine	
	Restricted Funds	164,000
y.	Load Application System	
	Restricted Funds	240,000
z.	Axis (5) CNC Machining	
	Restricted Funds	150,000
aa.	Color Digital Output Engine	
	Restricted Funds	700,000
ab.	High Volume Output Devices Duplicator	
	Restricted Funds	876,000
ac.	High Speed Graphics Imaging System	
	Restricted Funds	200,000
ad.	Digital Communication Network	
	Restricted Funds	2,000,000
ae.	Network Switching System	
	Restricted Funds	2,000,000
af.	Electronic Research Information System	
	Restricted Funds	2,000,000
ag.	Computer Workstations for Libraries	
	Restricted Funds	466,000
ah.	High Availability Enterprise System	
	Restricted Funds	1,430,000

ai.	Client Server System - File Server	
	Restricted Funds	1,100,000
aj.	Computer Processing System	
	Restricted Funds	2,000,000
ak.	Engineering Scientific Processor	
	Restricted Funds	1,100,000
al.	Supercomputing System	
	Restricted Funds	1,500,000
am.	Upgrade Supercomputer	
	Restricted Funds	400,000
an.	Autonomous Mobility Platform	
	Restricted Funds	400,000
	Federal Funds	60,000
	TOTAL	460,000
ao.	Concave Reality Unit	
	Restricted Funds	250,000
ap.	High Energy Physics Data Analysis	
	Restricted Funds	175,000
	Federal Funds	175,000
	TOTAL	350,000
aq.	Gel Blot Image Analysis System	
	Restricted Funds	145,000
ar.	High Resolution Hybrid Mass Spectrometer	
	Restricted Funds	500,000
	Federal Funds	100,000
	TOTAL	600,000
as.	Digital Micro-Luminography System	
	Restricted Funds	120,000
at.	Electronic Darkroom	
	Restricted Funds	193,000
au.	Laser Desorption/Ionization Mass Spectrometer	
	Restricted Funds	200,000
av.	Molecular Tagging Velocimetry	
	Restricted Funds	245,000
aw.	Peak 3D Equipment	
	Restricted Funds	120,000
ax.	Deposition Attachment - UHV Facility	
	Restricted Funds	500,000
ay.	Electric Injection Molding Machine	
	Restricted Funds	110,000
az.	Materials Testing System	
	Restricted Funds	218,000
ba.	Specialized Central Processing Unit	
	Restricted Funds	500,000
bb.	Protein Chip Analyzer	
	Restricted Funds	200,000
bc.	Nucleic Acid Microchip Analyzer	
	Restricted Funds	200,000

bd.	Analytical Ultracentrifuge	
	Restricted Funds	145,000
be.	High Resolution SEM	
	Restricted Funds	360,000
bf.	Intermediate Voltage Transmission	
	Restricted Funds	550,000
bg.	Micro-Computed Tomography Imager	
	Restricted Funds	480,000
bh.	Automated Synthesizer	
	Restricted Funds	95,000
	Federal Funds	95,000
	TOTAL	190,000
bi.	EPR Spectrometer Update	
	Restricted Funds	60,000
	Federal Funds	65,000
	TOTAL	125,000
bj.	Virtual Reality Display System	
	Restricted Funds	90,000
	Federal Funds	90,000
	TOTAL	180,000
bk.	Various Buildings (Guaranteed Energy Savings Project)	
bl.	Cardinal Park - Natatorium	
	Restricted Funds	7,335,000
	Other Funds	12,489,000
	TOTAL	19,824,000
bm.	Expand HSC Parking Garage - Two Additional Floors	
	Restricted Funds	4,794,000
bn.	Baseball Stadium	
	Other Funds	5,900,000
bo.	Cardinals' Nest - Housing	
	Other Funds	6,500,000
bp.	Land Purchase and construction of Floyd Street Parking Lot	
	Other Funds	2,290,000
bq.	UL and UK Fiber Optics Purchase	
	Restricted Funds	4,650,000
br.	Bio - Medical Research Building - Phase III Planning	
	Restricted Funds	4,835,100
10.	Western Kentucky University	
a.	A. A. #1 (Diddle Arena) Renovation	
	Restricted Funds (32,500,000- FY 2002)	
b.	Various Buildings (Guaranteed Energy Savings Project) (FY 2002)	
c.	Capital Renewal and Deferred Maintenance Pool	
	Restricted Funds	10,000,000
d.	Electrical Distribution Phase IV and V Renovation	
	Restricted Funds	2,449,000

	e.	Digital Television Transmission System	
		Restricted Funds	1,993,000
		Federal Funds	1,328,000
		TOTAL	3,321,000
	f.	Renovate/Construct Telephone Infrastructure	
		Restricted Funds	3,000,000
	g.	Van Meter Hall Renovation - Design	
		Restricted Funds	688,000
	h.	Central Heat Plant Renovation - Phase I	
		Restricted Funds	1,273,000
	i.	Garrett Conference Center Renovation - Design	
		Restricted Funds	858,000
	j.	Server	
		Restricted Funds	880,000
	k.	Video Server	
		Restricted Funds	800,000
	l.	Downing University Center Renovation	
		Restricted Funds	11,320,000
	m.	Land Acquisition	
		Restricted Funds	400,000
11.	Kentucky Community and Technical College System		
	a.	KCTCS System Office - Lease	
	b.	Capital Renewal and Deferred Maintenance Pool	
		Restricted Funds	13,444,000
	c.	Upgrade for ADA/Fire Safety - Somerset Community College	
		Restricted Funds	4,585,000
	d.	Master Plan Development and Upgrade Pool	
		Restricted Funds	650,000
	e.	HVAC System Renovation - Daviess Co. Campus	
		Restricted Funds	2,440,000
	f.	Install FiberOptics, Allied Health Building	
		Restricted Funds	558,000
	g.	Campus HVAC System Renovation - Somerset Community College	
		Restricted Funds	2,173,000
	h.	Replace HVAC System, 77 Addit, Laurel TC	
		Restricted Funds	1,280,000
	i.	Enclose Courtyard/Roof - Falkenstine Hall	
		Restricted Funds	1,359,000
	j.	Computer Interfaced Distillation Column	
		Restricted Funds	114,000
	k.	Helicopter for Aircraft Tech Program - JTC	
		Restricted Funds	271,000
	l.	New Telephone System Owensboro - CC & TC	
		Restricted Funds	340,000
	m.	Multi-engine Turbine Power Aircraft	
		Restricted Funds	300,000
	n.	Diagnostic Medical Sonography Unit	

Restricted Funds	110,000	
o. Various Buildings (Guaranteed Energy Savings Project)		
p. Maysville Community College		
Emergency Repair, Maintenance, and Replacement Fund (3,100,000 - FY 2001-2002)		
q. Henderson Community College - Lease		
r. Jefferson Community College - Lease		

M. PUBLIC PROTECTION AND REGULATION CABINET

Budget Unit	2002-03	2003-04
1. Department of Insurance		
a. Franklin County - Lease		
2. Public Advocacy		
a. Franklin County - Lease		
3. Housing, Buildings and Construction		
a. Franklin County - Lease		

N. REVENUE

Budget Unit	2002-03	2003-04
1. Office of the Secretary		
a. Franklin County - Lease		
b. Franklin County - Lease		
c. Franklin County - Lease		

O. TOURISM DEVELOPMENT CABINET

Budget Unit	2001-02	2002-03	2003-04

The total non-General Fund project costs shown do not reflect additions to the operating budget appropriations.

1. Kentucky State Fair Board			
a. Purchase DOT Building			
Bond Funds		500,000	
b. Replace Roofs			
Bond Funds		1,000,000	1,800,000
c. Teleconference Center - KICC			
Reauthorization and Reallocation (250,000 - Restricted Funds)			

The above Restricted Funds as appropriated in accordance with 2000 Ky. Acts ch. 549, Part II, Sec. O(2)(c), are reauthorized and reallocated to provide for the completion of the Kentucky International Convention Center Teleconferencing Center.

2. Department of Fish and Wildlife Resources			
a. Land Acquisition Pool			
Restricted Funds		500,000	500,000
b. Maintenance Pool			
Restricted Funds		300,000	300,000
3. Kentucky Horse Park			
a. Maintenance Pool			
Investment Income		475,000	475,000
b. Painting, Fencing, and Infrastructure Repair			
Investment Income		225,000	
c. Design and Infrastructure of a New Indoor Arena and Campground Expansion			
General Fund			400,000
4. Department of Parks			

a.	Construct Water Plant - Natural Bridge		
	Emergency Repair, Maintenance, and Replacement Fund	1,000,000	
b.	Maintenance Pool		
	Investment Income	5,100,000	4,200,000
c.	Campground Electrical/Life Safety Upgrade and Reconstruction		
	Investment Income	2,600,000	
d.	Construct Wave Barrier - Jenny Wiley		
	Reauthorization		
e.	Kincaid Lake Golf Course		
	Reauthorization		
f.	Ben Hawes State Park Project/Various Improvements		
	Reauthorization and Reallocation		

P. TRANSPORTATION CABINET

Budget Unit			2002-03	2003-04
1.	General Administration and Support			
	a.	Construct Martin County Maintenance Facility and Salt Dome		
		Road Fund		845,000
	b.	Replace HVAC System - Franklin County Materials Lab		
		Road Fund		600,000
	c.	Construct and Repair Various Salt Storage Structures		
		Road Fund		813,000
	d.	Asbestos Survey/Abatement/Air Monitoring		
		Road Fund		100,000
	e.	Building Renovation and Emergency Repairs		
		Road Fund	840,000	
	f.	Conduct Paving and Landscaping		
		Road Fund		600,000
	g.	Wastewater Treatment/Water Projects		
		Road Fund		200,000
	h.	HVAC Maintenance and Repair		
		Road Fund		800,000
	i.	Hydraulic Hoists-Heavy Equipment		
		Road Fund		300,000
	j.	Purchase of High Speed Duplicators (Two)		
		Road Fund		600,000
	k.	Purchase Electrical Digital Surveying System		
		Road Fund		150,000
	l.	Purchase Concrete and Geotech Testing System		
		Road Fund		146,000
	m.	Purchase of Core Drill		
		Road Fund		210,000
	n.	Various Parks Roads		
		Road Fund	1,500,000	1,500,000
2.	Highways			
	a.	TRNSPRT System		
		Road Fund	3,500,000	
	b.	Statewide Transportation Operations Center		

Federal Funds		5,680,000
Road Fund		1,420,000
TOTAL		7,100,000

Q. WORKFORCE DEVELOPMENT CABINET

Budget Unit	2002-03	2003-04
1. General Administration and Program Support		
a. Implement Guaranteed Energy Savings (Guaranteed Energy Performance Contract)		
b. Implement ADA Barrier Removal Pool		
Investment Income	125,000	
c. Maintenance Pool		
Investment Income	425,000	425,000
2. Vocational Rehabilitation		
a. Construct New Sewage Treatment Plant-Perkins Rehabilitation Center		
Capital Construction and Equipment Purchase Contingency Fund	265,000	
b. Franklin County - Lease		
c. Fayette County - Lease		
3. Employment Services		
a. DES Facility Renovation Pool Reauthorization		

The General Assembly authorizes the Department to develop and implement a facility replacement and renovation program to improve the quality of Workforce Development Cabinet facilities used by the Department and its clients, and to reduce departmental reliance on lease/rental properties. The Department is directed to coordinate this program with the Secretary of the Finance and Administration Cabinet. Proceeds acquired from the sale, transfer, or other disposition of existing facilities may be expended toward the purchase, construction, renovation, and equipping and furnishing of replacement facilities. Expenditures authorized by this provision are limited to the use of funds solely derived from the sale of Cabinet-owned facilities, which equity rights are shared between both the state and the federal government. Any project estimated to cost over $400,000 shall be reported to the Capital Projects and Bond Oversight Committee by the Secretary of the Finance and Administration Cabinet.

R. COAL SEVERANCE TAX PROJECTS

Notwithstanding KRS 42.4588(2) and (4), the following projects are authorized and appropriated from Local Government Economic Development Fund moneys from the respective single county fund pursuant to KRS 42.4592 for public purposes in the following coal-producing counties in the manner and amounts enumerated. These projects are determined by the General Assembly to be important to the furtherance of the public policy objectives and economic development purposes for which the Local Government Economic Development Program was established. The amounts appropriated are estimates. Actual expenditures and encumbrances shall be limited to the actual receipts realized and available in the respective single county fund. These amounts are comprised of estimated receipts for fiscal year 2002-2003 and fiscal year 2003-2004 in combination with prior unobligated balances in the respective single county funds. To the extent that a county that is authorized to proceed with a project enumerated below receives more single county Local Government Economic Development Fund moneys than are appropriated in this Act, the county may direct those funds to offset a cost overrun on any of the projects enumerated below upon approval of the Commissioner of the Coal County Development Office.

(1) GOVERNMENT OPERATIONS

a. Budget Unit Local Government	2002-03	2003-04
Bell County		
1. City of Pineville - Bell County Water Line Extensions		
Restricted Funds	630,000	
2. City of Pineville - Dorton Branch Sewer Extensions		
Restricted Funds		614,608
3. City of Pineville - Laurel Fork Extension		
Restricted Funds	716,330	
4. U.S. Utilities Inc. - Water Line Upgrade		

	Restricted Funds	33,360	
5.	U.S. Utilities Inc. - Ambleside Sewer Project		
	Restricted Funds		380,000
Boyd County			
6.	Boyd County Board of Education - Cannonsburg Elementary School - Playground Equipment and Improvements		
	Restricted Funds	10,000	
7.	Ashland American Little League - Equipment and Facility Improvements		
	Restricted Funds	10,000	
8.	Boyd County National Little League - Equipment and Facility Improvements		
	Restricted Funds	10,000	
9.	Boyd County AABC League - Equipment and Facility Improvements		
	Restricted Funds	10,000	
10.	City of Catlettsburg - Downtown Development		
	Restricted Funds	15,000	
11.	Ashland Alliance - Various Economic Development Efforts and Operations		
	Restricted Funds	10,000	
12.	Boyd County Fiscal Court - Various Parks, Fairs, Recreation and Economic Development Efforts		
	Restricted Funds	35,000	
13.	Boyd County Fiscal Court - Various Parks, Fairs, Recreation and Economic Development Efforts		
	Restricted Funds		37,870
14.	Ashland Alliance - Various Economic Development Efforts and Operations		
	Restricted Funds		10,000
15.	Boyd County Fiscal Court - Water and Sewer Projects		
	Restricted Funds	100,000	100,000
16.	City of Ashland - Water Treatment Plant Improvements		
	Restricted Funds	48,139	
Breathitt County			
17.	Breathitt County Water District - Water Line Extensions		
	Restricted Funds	500,000	781,804
18.	City of Jackson - Water Treatment Plant Expansions		
	Restricted Funds	600,000	
Butler County			

19.	Butler County Fiscal Court - Various Projects		
	Restricted Funds	75,000	75,000
Carter County			
20.	Carter County - Fire Departments		
	Restricted Funds		60,000
21.	Grayson Utility Commission - Water Treatment Plant		
	Restricted Funds	50,000	107,018
22.	Carter County School System - Soccer Fields Property Acquisition		
	Restricted Funds	25,000	
23.	Carter County Fair Board - Property Acquisition for Permanent Fair Location		
	Restricted Funds	25,000	
24.	City of Grayson - City Pool Repair and Maintenance/Operations		
	Restricted Funds	25,000	
25.	Grayson Little League Grounds		
	Restricted Funds	5,000	
26.	Olive Hill Little League		
	Restricted Funds	5,000	
27.	"Someday Outdoor Drama" Production Allowance		
	Restricted Funds	5,000	
28.	Grahn Community Center Production Allowance		
	Restricted Funds	10,000	
29.	Carter County Fiscal Court Recreational/Park Purposes and Property Acquisition		
	Restricted Funds	33,916	
30.	Mt. Savage Furnace Historic Marker Replacement		
	Restricted Funds	1,600	
31.	Rattlesnake Ridge Water District - Water Line Extension		
	Restricted Funds	150,000	
Clay County			
32.	City of Manchester - County-wide Water Line Extension		
	Restricted Funds	392,894	246,400
33.	City of Manchester - Clay County Fiscal Court - Sewer Line and Treatment Plant Upgrade		
	Restricted Funds	300,000	
34.	City of Pineville - Red Bird Mission Water Line Project		
	Restricted Funds	30,000	

35.	North Manchester Water Association Water Storage Tank		
	Restricted Funds	230,000	
Daviess County			
36.	Daviess County - Fire Station		
	Restricted Funds	240,000	
37.	Owensboro Southwest Park Project		
	Restricted Funds		200,000
38.	Daviess County Parks - Equipment		
	Restricted Funds	200,000	
39.	H.L. Neblett Center Capital Project		
	Restricted Funds	150,000	150,000
Floyd County			
40.	City of Prestonsburg - Mountain Top Economic Development		
	Restricted Funds	500,000	
41.	Floyd County Fiscal Court - Fire Protection		
	Restricted Funds	100,000	
42.	Southern Water and Sewer District - Water Line Extensions at Beaver Creek		
	Restricted Funds	441,419	
43.	Southern Water and Sewer District - Water Line Extensions in Southern Floyd County		
	Restricted Funds	1,000,000	
Greenup County			
44.	City of Flatwoods - Senior Citizens Center		
	Restricted Funds	8,000	
45.	City of Greenup-Water System Phase VII Expansion Project		
	Restricted Funds	14,155	99,399
46.	City of Russell - Sewer System		
	Restricted Funds	4,000	
47.	City of Worthington - Water System Interconnection		
	Restricted Funds		20,000
48.	City of Wurtland - Water Storage Tank		
	Restricted Funds	11,000	
49.	Greenup County - Fire Departments		
	Restricted Funds	24,777	
50.	City of Worthington - City of Raceland - Water System Interconnection		
	Restricted Funds	20,000	
Hancock County			
51.	Hancock County Fiscal Court - Lewisport Industrial Park Water Projects		

	Restricted Funds	91,219	
Harlan County			
52.	Black Mountain Utility District - Putney - Totz/Water Line Extension		
	Restricted Funds	1,250,000	
53.	Black Mountain Utility District - Water Line Extension to Molus/Treatment Plant		
	Restricted Funds	250,000	275,000
54.	City of Evarts - Line Extension with Black Mountain Utility District		
	Restricted Funds	800,000	
55.	City of Harlan - Water Treatment Plant		
	Restricted Funds	500,000	
56.	City of Harlan - Fire Station South		
	Restricted Funds	100,000	
57.	City of Loyall - Equipment and Repair for Fire, Police, and Sewer Departments		
	Restricted Funds		91,000
58.	City of Lynch - Water Line Upgrade		
	Restricted Funds	300,000	316,027
59.	City of Wallins Creek - City Equipment Purchase		
	Restricted Funds		20,000
60.	Green Hills Water District - Water Tank Construction		
	Restricted Funds	125,000	
61.	Green Hills Water District - Water Line to Little Shepard Trail		
	Restricted Funds	35,500	125,000
62.	Harlan County Fiscal Court - Southeast Community College-Paramedic Training		
	Restricted Funds	50,000	50,000
63.	Harlan County PVA - Digital/Mapping		
	Restricted Funds	35,000	
64.	Harlan County/Tri-Cities - Coordination for Community Development		
	Restricted Funds	35,000	35,000
65.	Southeast Community College Foundation - Mine Museum, Golf Course, and Mine Tour		
	Restricted Funds	250,000	250,000
66.	Southeast Community College Foundation - Underground Mine Tour		
	Restricted Funds	500,000	
67.	Harlan County Parks - Provide $5,000 for each of the following Parks - Pathfork Park,		

	Baxter Park, Green Hills Park, Coxton Park, Brookside Park, Black Mountain Park, Yocum Creek Park, Kenvir Park, Highsplint Park, Holmes Mill Park, Blair Park, Cumberland Rotary Park, Benham Park, Benham Coal Museum Park, Two Parks in Lynch, Portal 31 at Lynch, Dressin Park, Gulston/Mary Alice Park, Smith Park, Cawood Park, Martins Fork Recreation, Stone Mountain Boat Dock, Wallins Fellowship Center, Loyall Recreation Center, Totz Park, Harlan Shrine Club for Putney Parks, and Louellen Park	
	Restricted Funds	135,000
68.	Harlan County Park Development - Provide $7,500 for each of the following areas - Coldiron, Dayhoit/Fresh Meadows, Molus, Dion, Shields, and Cranks	
	Restricted Funds	45,000
69.	Harlan County Park Development - Bledsoe/Big Laurel	
	Restricted Funds	15,000
70.	City of Harlan - Downtown Revitalization Program	
	Restricted Funds	20,000
71.	Fire Department Equipment - Provide $7,000 for each of the following volunteer fire departments - Holmes Mill, Yocum Creek, Lower Clover Fork, Bledsoe, Putney, Wallins, Coldiron, Sunshine, Martins Fork, Evarts, Loyall, Upper Cloverfork, and Benham	
	Restricted Funds	91,000
72.	River Ridge - Study for Sewage Plant	
	Restricted Funds	5,000
73.	Evarts Train Depot - Renovation of Building	
	Restricted Funds	10,000
74.	Bledsoe Community Center - Construction of Building	
	Restricted Funds	20,000
75.	Cranks Volunteer Fire Department - Start-up expenses	
	Restricted Funds	15,000
76.	The Laurels Inc. - Renovation	
	Restricted Funds	40,000
77.	Harlan County Fiscal Court - Garage Building	
	Restricted Funds	40,000
78.	Harlan County Fiscal Court - Backhoe, truck and vehicle purchases	
	Restricted Funds	45,000
79.	Harlan County Fiscal Court - Provides $5,000	

	for each of the following rescue squads - Harlan, Cloverfork and Tri-City		
	Restricted Funds		15,000
80.	City of Loyall - Purchase of equipment for water/sewer services, and fire protection		
	Restricted Funds		20,000
81.	City of Wallins - Purchase of equipment for water/sewer services, and fire protection		
	Restricted Funds		20,000
82.	City of Benham - Purchase of equipment for water/sewer services, and fire protection		
	Restricted Funds		20,000
83.	City of Harlan - Little League		
	Restricted Funds		5,000
84.	City of Cumberland - Purchase or construction of a Tourism Welcome and Information Center for the Appalachian Fronteer Homestead		
	Restricted Funds		17,000
85.	City of Cumberland - Purchase of equipment for water/sewer services, and fire protection		
	Restricted Funds		20,000
86.	City of Lynch - Purchase of equipment for water/sewer services, and fire protection		
	Restricted Funds		20,000
87.	City of Evarts - Purchase of equipment for water/sewer services, and fire protection		
	Restricted Funds		25,000
88.	City of Harlan - Purchase of equipment, renovation, installation or extension of water, sewer lines, and/or fire protection		
	Restricted Funds		20,000
89.	Cawood Ledford Harlan County Boys and Girls Club		
	Restricted Funds		15,000
Henderson County			
90.	Henderson County Water District - Fulton-Yates/Mt. Zion Church Road Loop Water Line		
	Restricted Funds	125,000	
91.	Henderson County Water District - Various Extensions		
	Restricted Funds	230,000	
92.	Henderson County Water District - Posey-Ball Road Water Line		
	Restricted Funds	121,381	
93.	Henderson County Water District - Tank Repair		
	Restricted Funds	350,000	

94.	Henderson County Water District - Water Line Extension to Kings Mill Road, Birk City Road, and Green River Road		
	Restricted Funds	86,355	
95.	Henderson Water Utility - Interconnection with Evansville Water		
	Restricted Funds	100,000	
Hopkins County			
96.	Hopkins County Fiscal Court - Adult Education Initiative		
	Restricted Funds	200,000	
97.	Hopkins Volunteer Fire Departments - ($10,000 each to Anton, Charleston, Dawson Springs, Earlington, Grapevine, Hanson, Manitou, Mortons Gap, Nebo, Nortonville, Richland, St. Charles, South Hopkins, and White Plains to Purchase of Fire Fighting Equipment)		
	Restricted Funds	140,000	
Jackson County			
98.	Jackson County Fiscal Court - Buncomb Road Water Line		
	Restricted Funds	146,242	
99.	Jackson County Water Association - Water Supply Lake		
	Restricted Funds	100,000	88,256
Johnson County			
100.	City of Paintsville - Business/Technical/Incubator		
	Restricted Funds	300,000	
101.	Johnson County Fiscal Court - Fire Departments		
	Restricted Funds	35,000	35,000
102.	Paintsville Utility Commission - New Water Treatment Plant		
	Restricted Funds	20,757	
103.	Paintsville Utility Commission - Extensions in Scattered Locations		
	Restricted Funds	344,701	268,734
Knott County			
104.	Knott County Artisans Center - Construction		
	Restricted Funds	835,987	800,000
105.	Knott County Fiscal Court - Jail		
	Restricted Funds	600,000	600,000
106.	Knott County Fiscal Court - Fire Departments		

	Restricted Funds	100,000	50,000
107.	Knott County Fiscal Court - Beaver Park Expansions		
	Restricted Funds	100,000	
108.	Knott County Fiscal Court - Youth Development Center		
	Restricted Funds	100,000	
109.	Knott County/City of Hazard - Water Line Extension		
	Restricted Funds	661,746	
110.	Southern Water and Sewer District - Water Line Extension on Right Beaver Creek		
	Restricted Funds	3,348,903	674,090
111.	Kentucky School of Craft - KCTCS - Operating		
	Restricted Funds		500,000
Knox County			
112.	Barbourville Utility Commission - Water Tank and Pump Station HWY 229		
	Restricted Funds	175,000	
113.	Cranes Nest Waterlines		
	Restricted Funds	10,000	
114.	Scott Hollow Waterlines		
	Restricted Funds	5,000	
115.	Keck and Middle Fork of Richland Waterlines		
	Restricted Funds	60,000	
116.	Greenbriar Waterlines		
	Restricted Funds	15,000	
117.	Knox County Fiscal Court - Big Creek Water Tank - HWY 718		
	Restricted Funds		110,000
118.	Knox County Fiscal Court - Alex Creek Waterlines		
	Restricted Funds		15,000
119.	Knox County Fiscal Court - Salt Gum Waterlines		
	Restricted Funds		10,000
120.	Knox County Fiscal Court - Turkey Fork Waterlines		
	Restricted Funds		15,000
121.	Knox County Fiscal Court - Jeffs Creek Waterlines		
	Restricted Funds		10,000
122.	Knox County Fiscal Court - Houston Broughton Road Waterlines		
	Restricted Funds		10,000

123.	Knox County Fiscal Court - Mills Creek Waterlines		
	Restricted Funds		10,000
124.	Knox County Fiscal Court - Coles Branch Waterlines		
	Restricted Funds		10,000
125.	Knox County Fiscal Court - Don Mills Road Waterlines		
	Restricted Funds		5,000
126.	Knox County Fiscal Court - Dora Clark Branch Waterlines		
	Restricted Funds		12,000
127.	Knox County Fiscal Court - Hinkel Branch Waterlines		
	Restricted Funds		5,000
128.	Knox County Fiscal Court - Rob Smith Road Waterlines		
	Restricted Funds		3,000
129.	Knox County Fiscal Court - Brices Creek Waterlines		
	Restricted Funds		17,000
130.	Knox County Fiscal Court - Hales Creek Waterlines		
	Restricted Funds		10,000
131.	Knox County Fiscal Court - Lick Branch Waterlines		
	Restricted Funds		3,000
132.	Knox County Fiscal Court - Ely Hollow Waterlines		
	Restricted Funds		47,000
133.	Knox County Fiscal Court - Waterlines		
	Restricted Funds		15,445
134.	Southeast Ky. Rehabilitation Industries (SEKRI) - Renovation of Warner Building		
	Restricted Funds	330,189	
Laurel County			
135.	Wood Creek Water District - Water Tank and Pump Station		
	Restricted Funds	105,943	111,800
Lawrence County			
136.	Big Sandy Water District - Interconnection		
	Restricted Funds		196,540
137.	City of Louisa Water Project - Water System Improvements		
	Restricted Funds	391,520	
138.	Lawrence County Board of Education -		

	Community Wellness Center		
	Restricted Funds	50,000	50,000
139.	Lawrence County Fiscal Court - Community Center		
	Restricted Funds	200,000	
140.	Lawrence County Volunteer Fire Departments		
	Restricted Funds	10,078	45,922
Lee County			
141.	City of Beattyville - Water Line Extension		
	Restricted Funds	669,775	
142.	Lee County Fiscal Court - Library Renovation at Old Jail		
	Restricted Funds	150,000	
143.	Lee County Fiscal Court - Sewer Expansion to Happy Top		
	Restricted Funds		50,000
144.	Lee County Fiscal Court - Renovate Ambulance Building		
	Restricted Funds		50,000
145.	Lee County Fiscal Court - Various Community Development Programs		
	Restricted Funds		200,000
Leslie County			
146.	Leslie County Water District - Water Line Extension		
	Restricted Funds	350,000	
147.	Leslie County Water District - Water Line Extension		
	Restricted Funds	659,933	
148.	Leslie County Water District - Water Line Extension		
	Restricted Funds	250,000	
149.	Leslie County Water District - Water Line Extension		
	Restricted Funds	650,000	
150.	Leslie County Water District - Water Line Extension and System Telemetry		
	Restricted Funds	1,030,000	
151.	Leslie County Water District - Water Line Extension		
	Restricted Funds	500,000	
152.	Leslie County - Campus of Hazard Community College		
	Restricted Funds		500,000
153.	Leslie County Fiscal Court- Transportation		

	Improvements		
	Restricted Funds		500,000
154.	Leslie County Fiscal Court - E-911 Equipment and Operations		
	Restricted Funds		500,000
155.	Leslie County Fiscal Court - Stinnett Area Community Center		
	Restricted Funds		400,000
156.	Leslie County Fiscal Court - Funds to be divided equally among six (6) local Volunteer Fire Departments		
	Restricted Funds	150,000	
157.	Leslie County Fiscal Court - Jail Improvements		
	Restricted Funds		300,000
Letcher County			
158.	City of Fleming-Neon - Water Line Extension		
	Restricted Funds	590,000	
159.	City of Jenkins - City Hall Expansion		
	Restricted Funds	85,346	74,654
160.	City of Jenkins - Water Line Extension		
	Restricted Funds	223,466	
161.	City of Jenkins - Downtown Revitalization		
	Restricted Funds	120,000	
162.	City of Jenkins - Mountain Water District - Water Line Extension		
	Restricted Funds	450,000	
163.	City of Whitesburg - Water Line Extension		
	Restricted Funds	1,115,073	331,214
164.	Letcher County Board of Education - Fleming - Neon High School		
	Restricted Funds	100,000	
165.	Letcher County Fiscal Court - Landfill Closure		
	Restricted Funds	500,000	500,000
166.	Letcher County Water and Sewer District - Water Line Extension		
	Restricted Funds	800,000	
167.	Letcher County Domestic Violence Council		
	Restricted Funds	100,000	
McCreary County			
168.	McCreary County Water District - Water Line Extensions		
	Restricted Funds	403,981	46,019
169.	McCreary County - Human Resources Development Center		
	Restricted Funds		88,000
McLean County			
170.	McLean County Fiscal Court -		

	City of Island Water Department - Debt Service on 10" Line		
	Restricted Funds	70,000	
171.	McLean County Fiscal Court - City of Sacramento - Water System Improvements		
	Restricted Funds		50,000
172.	McLean County Fiscal Court - Water Line Improvements and Fire Hydrants		
	Restricted Funds	60,000	60,000
173.	McLean County Fiscal Court - High Speed Data/E-Government		
	Restricted Funds	30,000	
174.	McLean County Fiscal Court - Rumsey Sewer		
	Restricted Funds	200,000	50,000
175.	McLean County Fiscal Court - Extension of Water Lines at Pone River		
	Restricted Funds	20,000	30,000
176.	McLean County Fiscal Court - Fire Departments		
	Restricted Funds	80,000	
177.	McLean County Fiscal Court - Fire/ Rescue Equipment or Vehicle		
	Restricted Funds		50,000
Magoffin County			
178.	Magoffin County Fiscal Court - Administrative Office Building		
	Restricted Funds	600,000	
179.	Magoffin County Fiscal Court - Fire Departments		
	Restricted Funds	100,000	
180.	Magoffin County Water District - Water Line Extensions		
	Restricted Funds	405,000	
181.	Magoffin County Water District - Paintsville New Treatment Plant		
	Restricted Funds	812,046	187,954
182.	Magoffin County Rescue For purchase of truck		
	Restricted Funds	50,000	
183.	Royallton Fire Department		
	Restricted Funds	10,000	
184.	Salyersville Fire Department		
	Restricted Funds	10,000	
Martin County			
185.	City of Warfield - Community Center		
	Restricted Funds	25,000	

186.	Martin County Senior Citizens Center - Equipment	Restricted Funds	20,000
187.	Martin County Sheriff's Office - Equipment	Restricted Funds	22,000
188.	Martin County Volunteer Fire Departments	Restricted Funds	28,000
189.	Martin County Water District - Upgrade/Expansion Water Treatment Plant	Restricted Funds	3,122,831
190.	Martin County Water District - Eastern Area Water Line Extensions	Restricted Funds	470,034
191.	Martin County Water District - Side Hollow Water Line Extensions	Restricted Funds	1,033,289
192.	Roy F. Collier Community Center - Furnishings and Equipment	Restricted Funds	500,000
Menifee County			
193.	Cave Run Water Commission - Water Plant	Restricted Funds	237,702
194.	Menifee County Youth Center	Restricted Funds	50,000
195.	Menifee Fire Departments	Restricted Funds	40,000
196.	Walking Trail Park	Restricted Funds	40,000
197.	Spec Building	Restricted Funds	250,000
Morgan County			
198.	Morgan County Fiscal Court - ($10,000 Grant to Each of the Six Local Volunteer Fire Departments)	Restricted Funds	60,000
199.	Morgan County Fiscal Court - Industrial Road Development - Spec Building Construction and Industrial Site Development	Restricted Funds	750,000
200.	Morgan County Fiscal Court - Development of Park at the Mouth		

	of Caney Creek		
	Restricted Funds	50,000	
201.	Morgan County Fiscal Court - Morgan County Memory Hill		
	Restricted Funds	10,000	
Muhlenberg County			
202.	Muhlenberg County Fiscal Court - Adult Education Initiative		
	Restricted Funds	100,000	
Ohio County			
203.	Ohio County Fiscal Court - Bluegrass Memorial/Music		
	Restricted Funds	209,517	64,640
204.	Ohio County Water District - Transmission Main		
	Restricted Funds	207,260	
205.	Ohio County Water District - Transmission Main		
	Restricted Funds		232,260
206.	Ohio County Sheriff - Patrol Cars		
	Restricted Funds	50,000	
Owsley County			
207.	Owsley County Fiscal Court - Economic Development Initiatives		
	Restricted Funds		150,000
208.	Owsley County Fiscal Court - Booneville Volunteer Fire Department - Fire Truck		
	Restricted Funds	50,000	
Perry County			
209.	City of Hazard - Robinson - Rowdy Water Line		
	Restricted Funds	1,099,134	
210.	City of Hazard - South Perry County Water Line		
	Restricted Funds	769,702	1,280,800
Pike County			
211.	Breaks Interstate Park - Improvement Project		
	Restricted Funds		1,000,000
212.	City of Elkhorn City - Water Line Extension		
	Restricted Funds		363,204
213.	City of Pikeville - Underground Utilities		
	Restricted Funds	1,000,000	
214.	East Kentucky Exposition Center - Facility Construction		
	Restricted Funds	2,000,000	
215.	East Kentucky Exposition Center - Operations		

	Restricted Funds	150,000	250,000
216.	Fishtrap State Park - Expansion Project		
	Restricted Funds	431,226	1,568,774
217.	Mountain Water District - Lower Shelby Valley Sewer Project		
	Restricted Funds	800,000	
218.	Mountain Water District - Fords Mountain Connector		
	Restricted Funds		366,000
219.	Mountain Water District - Phelps Water Line Extensions		
	Restricted Funds	151,000	
220.	Mountain Water District - Feds Creek Extension		
	Restricted Funds	911,747	
221.	Pike County Fiscal Court - Blackberry Senior Citizens Center		
	Restricted Funds	100,000	
222.	Pikeville Water Department - Water Treatment Improvements		
	Restricted Funds	174,000	
223.	Mountain Water District - Chloe-Shelbianna Connector		
	Restricted Funds	197,000	
Rockcastle County			
224.	Reauthorize "Match for Appalachia Community Initiative" and Redirect to Rockcastle County Industrial Authority for Land Acquisition and Job Creation or Expansion		
	(Restricted Funds - $245,000)		
Union County			
225.	City of Morganfield - Raw Water Main		
	Restricted Funds	1,000,000	
226.	Union County Fiscal Court - Sewer Line		
	Restricted Funds		1,000,000
227.	Union County Water District - Water Line Extension		
	Restricted Funds	50,000	
228.	Uniontown Sewer Facility		
	Restricted Funds	150,000	
229.	Union County - Flood Plain Study		
	Restricted Funds	60,000	
230.	Union County - City of Morganfield - Morganfield Pedestrian Destination: Land Acquisition, Site Development, Professional Services		
	Restricted Funds	371,500	

Webster County			
231.	Sebree South Industrial Park - Sewer Line Extension		
	Restricted Funds	800,000	
232.	Webster County Water District - Water Line Extensions		
	Restricted Funds	600,000	
233.	Webster County Water District - Water Tank		
	Restricted Funds	500,000	
Whitley County			
234.	City of Corbin - Incline Road Water Line Extension		
	Restricted Funds	192,330	
235.	Whitley County Fiscal Court - County Water Line Extensions		
	Restricted Funds		329,300
236.	Whitley County Water District - Nevisdale Water Line Extensions		
	Restricted Funds	179,932	
237.	Whitley County Library Board - Book Refurbishing and Replacement		
	Restricted Funds	25,000	
238.	Whitley County Senior Citizens Van		
	Restricted Funds	25,000	
239.	Whitley County Senior Citizens Center		
	Restricted Funds	96,000	
Wolfe County			
240.	City of Campton - Water Line Extension		
	Restricted Funds		217,673
241.	Hazel Green Fire Truck Purchase		
	Restricted Funds	158,000	

CAPITAL PROJECTS BUDGET PROVISIONS FOR PART II, CAPITAL PROJECTS

1. All appropriations to existing line-item capital construction projects expire on June 30, 2002, unless reauthorized in this Act with the following exceptions: (1) a construction contract for the project shall have been awarded by June 30, 2002; (2) permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds; (3) grant or loan agreements, if applicable, shall have been finalized and properly signed by all necessary parties; and (4) any capital construction project authorized pursuant to actions approved by the 2000 General Assembly House Bill 507 (2000 Ky. Acts, ch. 549, Part II, R. Community Development Projects or S. Coal Severance Tax Projects), unless expressly reauthorized or reallotted in this Act. Any capital construction project authorized pursuant to actions approved by the 2000 General Assembly House Bill 507 (2000 Ky. Acts, ch. 549, Part II, R. Community Development Projects or S. Coal Severance Tax Projects), that is not expressly reauthorized or reallotted in this Act is deemed to be reauthorized. Notwithstanding the criteria set forth in this section, the disposition of 2000-2002 non-statutory appropriated maintenance pools funded from Capital Construction Investment Income shall remain subject to the provisions of KRS 45.770(4)(c) and (d) with the exception of the Cabinet for Families and Children. To facilitate the transfer of five (5) buildings from the Cabinet for Families and Children to the Finance and Administration Cabinet, it is the intent of the General Assembly that any remaining balance in any currently authorized Cabinet for Families and Children non-bond funded project be credited to the Finance and Administration Cabinet Maintenance Pool. Purchases of major items of equipment require reauthorization if a purchase order has not been executed by June 30, 2002.

2. Bond projects authorized for the first time in this section which have debt service supported by state General Fund appropriations are authorized in the first year of the biennium. The full amount of annualized debt service has been included at the

beginning of fiscal year 2003-2004. Therefore, the sale of any permanent bonds to finance these projects shall occur after January 1, 2003.

3. If any authorized capital construction or major equipment projects are canceled, any General Fund appropriated debt service for those same projects shall lapse to the credit of the General Fund.

4. Notwithstanding the provisions of KRS 45.750 to 45.782, the General Assembly has determined that certain individual capital projects identified in this Act as eligible for funding from the Emergency Repair, Maintenance and Replacement Fund, the Capital Construction and Equipment Purchase Contingency Fund or the Deferred Maintenance Fund require a direct appropriation from the Emergency Repair, Maintenance and Replacement Fund, the Capital Construction and Equipment Purchase Contingency Fund and the Deferred Maintenance Fund in this Act. KRS 45.782 notwithstanding, certain of the Deferred Maintenance projects identified in Part II of this Act exceed $400,000 each.

5. Investment income earned from bond proceeds beyond that which is required to satisfy Internal Revenue Service arbitrage rebates and penalties and excess bond proceeds upon the completion of a bond financed capital project may be used to pay debt service according to the Internal Revenue Service Code and accompanying regulations. Notwithstanding the provisions of KRS 48.720, KRS 48.010, or any section of this Act, any funds appropriated but not required to pay debt service because of this fund source substitution shall be credited to the Deferred Maintenance Pool Account each year. Unneeded debt service resulting due to any other circumstance shall lapse in accordance with KRS 48.720, KRS 48.010, and other provisions of this Act except for the following: if the fund balance in the Emergency Repair, Maintenance and Replacement Fund falls below $5,000,000 in fiscal year 2001-2002 or in fiscal year 2002-2003, any debt service lapse necessary to bring the fund balance to $5,000,000 in either of these fiscal years shall be credited to the Emergency Repair, Maintenance and Replacement Fund. If the Emergency Repair, Maintenance and Replacement Fund remains at $5,000,000 or above, the first $2,000,000 in fiscal year 2001-2002 or fiscal year 2002-2003 in debt service lapse shall be deposited to the General Fund Surplus Account for the purpose of paying unbudgeted Necessary Government Expenses. No transfer to the Emergency Repair, Maintenance and Replacement Fund or the General Fund Surplus Account shall be made based on the above provisions if the lapse from other General Fund accounts is insufficient to meet appropriations approved in other parts of this Act.

6. Investment income earned from funds credited to the Technology Trust Fund account in the Finance and Administration Cabinet shall accrue to the Capital Construction and Equipment Purchase Contingency Account established in KRS 45.770.

7. The Council on Postsecondary Education subheading in this Part includes a project entitled "Agency Bond Pool," (L.1.a.). Agency Bond Pool, $66,800,000 in projects are authorized to be funded from Restricted Funds-supported bonds. This pool provides funding for individual projects to be recommended by the Council on Postsecondary Education to the Secretary of the Finance and Administration Cabinet from the project listings previously identified and recommended by the Council for funding in the 2002-2004 biennium.

The provisions of KRS 45.750 to 45.816 notwithstanding, capital construction projects at institutions of postsecondary education involving no state or Federal Funds may be authorized between regular sessions of the General Assembly if the projects receive prior approval from both the Council on Postsecondary Education and the Secretary of the Finance and Administration Cabinet, and the Capital Projects and Bond Oversight Committee receives prior notification.

8. The Research Challenge Trust Fund-Endowment Match capital project appropriation under the Council on Postsecondary Education (L.1.c.) shall be transferred to the Research Challenge Trust Fund as established in KRS 164.7911 and KRS 164.7917.

9. The Regional University Excellence Trust Fund-Endowment Match capital project appropriation under the Council on Postsecondary Education (L.1.d.) shall be transferred to the Regional University Excellence Trust Fund as established in KRS 164.7911 and KRS 164.7919.

10. Notwithstanding 2000 Ky. Acts ch. 549, Part II, 10., pertaining to the Capital Renewal and Maintenance Pool, the matching requirement is extended until June 30, 2004. Each postsecondary education institution may access any unmatched funds allocated from the Capital Renewal and Maintenance Pool to that institution after entering into an agreement with the Council on Postsecondary Education agreeing to fulfill the matching requirement by June 30, 2004. The Council on Postsecondary Education shall develop guidelines for the agreements.

11. Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission under the provisions of KRS 56.440 to 56.590. In addition to the terms and conditions of KRS 154.12-100, administration of the Economic Development Bond program by the Secretary of the Cabinet for Economic Development is subject to the following guideline: project selection shall be documented when presented to the Secretary of the Finance and Administration Cabinet. Included in the documentation shall be the rationale for selection and expected economic development impact.

12. Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following areas: Repair of State-Owned Dams, Land Acquisition, Property Demolition, Guaranteed Energy Savings projects, Purchase of Agricultural Conservation Easements (PACE), Wetland and Stream Mitigation, Phase I Tobacco Settlement Agricultural Development Initiative, Economic Development projects which shall include authorization for the High-Tech Construction Pool and the High-Tech Investment Pool, Infrastructure projects, Employment

Services facilities projects authorized in this part of this Act, Asbestos Abatement projects, Technology Trust Fund projects, systems, initiatives, and the Council on Postsecondary Education Agency Bond Pool and Capital Renewal and Maintenance Pool. Any projects estimated to cost over $400,000 and equipment estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee. All moneys transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

13. Notwithstanding KRS 42.560 or any other statute or provision of law to the contrary, all undisbursed funds in the Energy Assistance Trust Fund, the expenditure authority for which expired February 19, 1998, are hereby transferred and appropriated to the Energy Efficiency in State Government Buildings Revolving Loan Fund, contingent upon passage of enabling legislation. These funds represent receipts and accumulated interest thereon from the Stripper Well Settlement Agreement under the U.S. Department of Energy Stripper Well Exemption Litigation, as provided in KRS 42.560 to 42.566. These funds are appropriated as Restricted Funds in the Finance and Administration Cabinet's Capital Budget.

14. Notwithstanding the provisions of KRS 154.33-600 to 154.33-609 or any other statute or provision of law to the contrary, all moneys appropriated by the 1998 General Assembly and added to or reauthorized by the 2000 General Assembly for the Red Fox golf course are hereby reauthorized and reallocated to a new entity entitled "The Perry/Knott County Recreational Authority"(PKCRA) with the following exception: the $700,000 originally appropriated by the 1998 General Assembly from the Letcher County/Single County Coal Severance tax money is hereby directed to be returned to Letcher County. The balance of funds remaining in the heretofore entitled Red Fox/Carr Fork golf course project are authorized to be directed to a public recreational project or projects including, but not limited to, a public golf course at a site or sites to be determined by the Authority. The recreational project or projects supported by these funds shall be administered through a new bi-county cooperative authority comprised of one (1) member from both Knott and Perry Counties who shall be appointed by the respective County Judge/Executive and three (3) members who shall be appointed by the Governor. The new five (5) member Board of the Authority shall develop, operate, and manage the project. This authorization shall supersede any previous authorization by the General Assembly and any memorandum of agreement or understanding that has been entered into among the Commonwealth, Perry, Knott, and Letcher counties.

15. The appropriation by the 2000 General Assembly in the amount of $2,000,000 in Bond Funds for fiscal year 2001-2002 (2000 Ky. Acts, ch. 549, Part II, R. Community Development Projects, 1. Finance and Administration Cabinet, number 661, Aquaculture Infrastructure Components), in accordance with the provisions of Part II 1. (4) Capital Project Budget Provisions, of this Act, is reauthorized and reallocated in fiscal year 2002-2003 to be administered by the Governor's Office of Agriculture Policy as follows: $600,000 to the Purchase Area Aquaculture Cooperative of which $450,000 is to be used for the purchase and installation of processing equipment, and the remaining $150,000 is to be used to complete the pond cost share program for farmers that were deemed qualified but due to rankings did not get funded; $1,000,000 to the Kentucky State University Aquaculture Program of which $900,000 is to be used for shrimp research and development, and the remaining $100,000 is to be used for bass research and development; and $400,000 to the Aquaculture Facility in Montgomery County.

16. The Guaranteed Energy Performance Projects Pool shall serve as a central project pool for Guaranteed Energy Savings Performance Contracts in any state-owned building. These contracts will function as lease-purchase procurements, using energy savings as payment for improvements, as provided by 2002 Senate Bill 61. The Finance and Administration Cabinet is authorized to enter into various guaranteed energy performance contracts for facilities in any state agency up to a total amount of $37,500,000. Included in this authorization are: $1,160,000 for HVAC upgrades for Ashland and Owensboro Armories, $3,000,000 for energy improvements for various institutions in the Department of Corrections, and $2,540,000 for energy improvements in the Department for Employment Services facility located in Louisville.

PART III

GENERAL PROVISIONS

1. Restricted Funds designated in the biennial budget bills are classified in the state financial records and reports as the Agency Revenue Fund, State Enterprise Funds (State Parks, State Fair Board, Insurance Administration, and Kentucky Horse Park), Internal Services Funds (Fleet Management, Computer Services, Correctional Industries, Central Printing, Risk Management, and Property Management), and selected Fiduciary Funds (Unemployment Compensation and Other Expendable Trust Funds). Separate funds records and reports shall be maintained in a manner consistent with the branch budget bills.

The sources of Restricted Funds appropriations in this Act shall include all fees (which includes fees for room and board, athletics, and student activities) and rentals, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments, and other miscellaneous receipts produced or received by a budget unit, except as otherwise specifically provided, for the purposes, use, and benefit of the budget unit as authorized by law. Restricted Funds receipts shall be credited and allotted to the respective fund or account out of which a specified appropriation is made in this Act. All receipts of Restricted Funds shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

The sources of Federal Funds appropriations in this Act shall include federal subventions, grants, contracts, or other Federal Funds received, income from investments, and other miscellaneous federal receipts received by a budget unit, except as otherwise provided, for the purposes, use, and benefit of the budget unit as authorized by law. Federal Funds receipts shall be credited and allotted to the respective fund account out of which a specified appropriation is made in this Act. All Federal Funds receipts shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and

48.

2. If receipts received or credited to the Restricted Funds accounts or Federal Funds accounts of a budget unit during fiscal year 2002-2003 or fiscal year 2003-2004, and any balance forwarded to the credit of these same accounts from the previous fiscal year, exceed the appropriation made by specific sum for these accounts of the budget unit as provided in Part I, Operating Budget, of this Act for the fiscal year in which the excess occurs, the excess funds in the accounts of the budget unit shall become available for expenditure for the purpose of the account during the fiscal year only upon compliance with the conditions and procedures specified in KRS 48.400 to 48.800 and this Act, and with the authorization of the State Budget Director of the Office of State Budget Director and approval of the Secretary of the Finance and Administration Cabinet.

Prior to authorizing the appropriation of any excess, unbudgeted Restricted Funds pursuant to this section, the State Budget Director and the Secretary of the Finance and Administration Cabinet shall review the adequacy of the General Fund Surplus Account with respect to its availability to support Necessary Government Expenses. In the event that General Fund Surplus Account moneys are determined by this review to be adequate to meet known or anticipated Necessary Government Expenses during fiscal year 2001-2002 or fiscal year 2002-2003 or fiscal year 2003-2004, respectively, then the appropriation increase may be approved. In the event that the review contemplated in this section indicates that there are insufficient funds available or reasonably estimated to become available to the General Fund Surplus Account to meet known or projected Necessary Government Expenses for the fiscal years enumerated above, the State Budget Director, with the concurrence of the Secretary of the Finance and Administration Cabinet, may disapprove the request for additional Restricted Funds expenditure authority and may direct the excess Restricted Funds identified to the General Fund Surplus Account in order to meet Necessary Government Expense obligations. The results of any review shall be reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.400 to 48.800.

On or before the beginning of each fiscal year, and, if applicable, during each fiscal year, each budget unit shall document and submit to the Finance and Administration Cabinet, the Governor's Office for Policy and Management, and the Legislative Research Commission a record of Restricted Funds and Federal Funds for each budget unit showing the most current estimates of receipts by sources and expenditures by uses, a comparative statement of any revised estimated receipts and proposed expenditures with appropriation sums specified in the enacted Budget of the Commonwealth, and statements which explain the cause, source, and use for a variance which may exist.

Each budget unit shall submit its reports in print and electronic format consistent with the Restricted Funds and Federal Funds records contained in the fiscal biennium 2002-2004 Branch Budget Request Manual and according to the following schedule in each fiscal year: (1) on or before the beginning of each fiscal year; (2) on or before October 1; (3) on or before January 1; and (4) on or before April 1.

3. Funds appropriated in this Act shall not be expended for any purpose not specifically authorized by the General Assembly in this Act nor shall funds appropriated in this Act be transferred to or between any cabinet, department, board, commission, institution, agency, or budget unit of state government unless specifically authorized by the General Assembly in this Act and the provisions of KRS 48.400 to 48.800. Compliance with the provisions of this subsection shall be reviewed and determined by the Interim Joint Committee on Appropriations and Revenue.

4. No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund or Road Fund appropriations contained in this Act unless the obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation considered by the General Assembly, legislative and executive records, and the statutory budget memorandum.

5. Any General Fund or Road Fund appropriation made in anticipation of a lack, loss, or reduction of Federal Funds shall lapse to the General Fund or Road Fund Surplus Account respectively to the extent the Federal Funds otherwise become available.

6. A state agency entitled to Federal Funds which would represent one hundred percent (100%) of the cost of a program shall conform to KRS 48.730.

7. Pursuant to KRS 48.720, any excess General Fund or Road Fund debt service shall lapse to the respective surplus account unless otherwise directed in this Act.

8. No appropriation from any fund source shall exceed the sum specified in this Act until the agency has documented the necessity, purpose, use, and source, and the documentation has been submitted to the Interim Joint Committee on Appropriations and Revenue for its review and action in accordance with KRS 48.630. Proposed revisions to an appropriation contained in the enacted State/Executive Budget or allotment of an unbudgeted appropriation shall conform to the conditions and procedures of KRS 48.630 and this Act.

Notwithstanding KRS 48.630(3), (4), and (5), any proposed and recommended actions to increase appropriations for funds specified in Section 2 of this Part shall be scheduled consistent with the timetable contained in that section in order to provide continuous and timely budget information.

9. Allotments within appropriated sums for the activities and purposes contained in the enacted State/Executive Budget shall conform to KRS 48.610 and may be revised pursuant to KRS 48.605 and this Act.

10. All statutory continuing appropriations in existence at the time this Act takes effect are discontinued and suspended by this Act except as provided by Chapters 42, 96A, 164, 183, 278, and 441 of the Kentucky Revised Statutes. All statutes and

portions of statutes in conflict with any of the provisions of this section, to the extent of the conflict, are suspended, unless otherwise provided by this Act.

11. Except as otherwise explicitly authorized by this Act, nothing in this Act shall be construed to repeal any appropriation made heretofore or hereafter for the fiscal year ending June 30, 2002, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet except as otherwise provided in this Act.

12. All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which the appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500, and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

13. The State Budget Director shall cause the Governor's Office for Policy and Management, within sixty (60) days upon adjournment of the 2002 Regular Session of the General Assembly, to publish a final enacted budget document, styled the Budget of the Commonwealth, based upon the recommended State/Executive Budget, Judicial Budget, and Legislative Budget as enacted by the 2002 Regular Session of the General Assembly as well as other Acts which contain appropriation provisions for the 2002-2004 biennium, and based upon supporting documentation and legislative records as considered by the 2002 Regular Session of the General Assembly and the statutory budget memorandum. This document shall include for each agency and budget unit a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class and for the State/Executive Budget, and any other fiscal data and commentary considered necessary for budget execution by the Governor's Office for Policy and Management and oversight by the Interim Joint Committee on Appropriations and Revenue. The enacted State/Executive Budget shall be revised or adjusted only upon approval by the Governor's Office for Policy and Management as provided in each part of this Act and by KRS 48.400 to 48.800, and upon review and action by the Interim Joint Committee on Appropriations and Revenue.

14. Pursuant to KRS 48.400, the Secretary of the Finance and Administration Cabinet shall monitor and report on the financial condition of the Commonwealth.

15. The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for prorating the administrative costs of the Finance and Administration Cabinet, the Department of Treasury, and the Office of the Attorney General relative to the administration of programs in which there is joint participation by the state and federal governments for the purpose of receiving the maximum amount of participation permitted under the appropriate federal laws and regulations governing the programs. The receipts and allotments under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue prior to any transfer of funds.

16. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Secretary of the Transportation Cabinet. However, if Road Fund resources are not sufficient to meet lease rental payments, the additional amount required for meeting lease rental payments as certified by the Secretary of the Transportation Cabinet under KRS 143.090 shall be transferred from coal severance tax receipts to meet the obligation.

17. Nothing in this Act shall be construed to confirm or ratify, under KRS 12.027 or 12.028, any executive reorganization order unless the executive order was confirmed or ratified by appropriate amendment to the Kentucky Revised Statutes in another Act of the 2002 Regular Session of the General Assembly. If any executive reorganization order issued from sine die adjournment of the 2001 Regular Session to sine die adjournment of the 2002 Regular Session is not confirmed by the 2002 Regular Session of the General Assembly, the Secretary of the Finance and Administration Cabinet shall, in consultation with agency heads and with notification to the Legislative Research Commission, transfer the balance of funds for any affected program or function for fiscal year 2001-2002 and any related appropriations and funds for each of the next two (2) fiscal years from the budget unit in which the program or function was placed by the executive reorganization order to the budget unit in which the program or function resided prior to the reorganization action or in which it was placed by action of the 2002 Regular Session of the General Assembly. The Legislative Research Commission shall forward the documentation to the appropriate committees.

18. Notwithstanding KRS 61.565, the employer contribution rate for the Kentucky Employees Retirement System shall be as follows: the General Assembly has determined that the employer contribution rate for the Kentucky Employees Retirement System for fiscal year 2002-2003 shall take appropriate notice of the additional revenues credited to the system as a result of the Anthem Blue Cross Blue Shield demutualization agreement. Therefore, from July 1, 2002, through June 30, 2003, the contribution rates shall be no more than three and seventy-six hundredths percent (3.76%) for nonhazardous duty employees, seventeen and six-tenths percent (17.60%) for hazardous duty employees; and seventeen and thirty-seven hundredths percent (17.37%) for employees of the State Police Retirement System. From July 1, 2003, through June 30, 2004, the employer contribution rate shall be no more than five and eighty-nine hundredths percent (5.89%) for nonhazardous duty employees; and eighteen and eighty-four hundredths percent (18.84%) for hazardous duty employees; and twenty-one and fifty-eight hundredths percent (21.58%) for employees of the State Police Retirement System.

19. By August 15, 2003, the Finance and Administration Cabinet, in conjunction with the Consensus Forecast Group, shall provide to each branch of government, pursuant to KRS 48.117, a budget planning report.

20. By October 15, 2003, the Finance and Administration Cabinet shall provide to each branch of government detailed

estimates for the General Fund and Road Fund for the current and next two fiscal years of the revenue loss effected by tax expenditures. The Revenue Cabinet shall provide assistance and furnish data which is not restricted by KRS 131.190. "Tax expenditure" means an exemption, exclusion, or deduction from the base of a tax, a credit against the tax, a deferral of a tax, or a preferential tax rate. The estimates shall include for each tax expenditure the amount of revenue loss, a citation of the legal authority for the tax expenditure, the year in which it was enacted, and the tax year in which it became effective.

21. Any appropriation item and sum in Part I to Part XI of this Act and in an appropriation provision in another Act of the 2002 Regular Session which constitute a duplicate appropriation shall be governed by KRS 48.312.

22. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

23. Appropriation items and sums in Part I to Part XI of this Act shall conform to KRS 48.311. If any section, any subsection, or any provision is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

24. For fiscal year 2002-2003 and fiscal year 2003-2004, the first $6,000,000 of any unclaimed prize money held in the corporate operating account of the Kentucky Lottery Corporation shall be added to the pool from which future prizes are to be awarded or used for special prize promotions, and any amount in excess of $6,000,000 shall be transferred to the Affordable Housing Trust Fund established by KRS 198A.710.

25. Notwithstanding KRS 48.700 and the provisions of Part I, II, IX, or X of this Act, the undesignated General Fund balance in fiscal year 2001-2002 shall be carried forward and available for appropriation in fiscal year 2002-2003, and the undesignated General Fund balance in fiscal year 2002-2003 shall be carried forward and available for appropriation in fiscal year 2003-2004.

26. The Technology Trust Fund is the Technology Trust Fund established by the 1996 Ky. Acts ch. 380, Part X, to empower Kentucky state government through technology and redesigned business systems, and additional amounts made available and appropriated to it by the 1998 Regular Session in House Bill 321 (1998 Ky. Acts ch. 615, Part X).

Appropriations allotted from the Technology Trust Fund for each project, initiative, or system, as well as all other associated resources made available from regular appropriations for the same purpose from a budget unit shall be transferred and credited to, and accounted for and expended from, a discrete account established for the individual project, initiative, or system item. In addition to the General Fund appropriations in this Part for the Technology Trust Fund, Restricted Funds, Federal Funds, the Road Fund, private funds, and any matching fund appropriations required are appropriated in support of the projects and priorities identified by the Redesign Steering Committee. However, KRS 45.760(14), 45.770, 45.780, and 45.800 notwithstanding, no funds from the Emergency Repair, Maintenance and Replacement Account shall be used for Technology Trust Fund projects, systems, or initiatives.

27. The General Assembly acknowledges that during fiscal year 2000-2001 the General Fund revenues were less than the enacted estimates pursuant to KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in the 2000 Kentucky Acts Chapters 544, 545, and 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 General Fund Budget Reduction Plan for fiscal year 2000-2001 in the 2000 Kentucky Acts Chapter 549, Part VI, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the heads of the executive, judicial, and legislative branches shall revise and reduce appropriations and allotments and other deficit alleviation actions for their respective branch budget units under KRS 48.130(4).

Notwithstanding the provisions of KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised General Fund appropriation levels for the budget units of the Executive Branch identified in General Fund Budget Reduction Order 01-01 and General Fund Budget Reduction Order 01-02 and confirms and enacts the advances, transfers, and lapses to the General Fund of non-General Fund moneys identified in General Fund Budget Reduction Order 01-01 and General Fund Budget Reduction Order 01-02.

The General Assembly acknowledges that during fiscal year 2001-2002 the General Fund revenues were less than the enacted estimates pursuant to KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in the 2000 Kentucky Acts Chapters 544, 545, and 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

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Notwithstanding the provisions of KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised General Fund appropriations levels for budget units of the Executive Branch contained in General Fund Budget Reduction Order 02-01 and General Fund Budget Reduction Order 02-02, and confirms and enacts the advances, transfers, and lapses to the General Fund of non-General Fund moneys identified in General Fund Budget Reduction Order 02-01 and General Fund Budget Reduction Order 02-02.

The General Assembly acknowledges that during fiscal year 2000-2001 the Road Fund revenues were less than the enacted estimates in accordance with KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in the 2000 Kentucky Acts Chapter 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 Road Fund Budget Reduction Plan for fiscal year 2000-2001 in the 2000 Kentucky Acts Chapter 549, Part VII, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the head of the Executive Branch shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding the provisions of KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised Road Fund appropriation levels for the budget units of the Executive Branch identified in Road Fund Budget Reduction Order 01-01 and Road Fund Budget Reduction Order 01-02 and confirms and enacts the advances, transfers, and lapses to the Road Fund of non-Road Fund moneys identified in Road Fund Budget Reduction Order 01-01 and Road Fund Budget Reduction Order 01-02.

The General Assembly acknowledges that during fiscal year 2001-2002 the Road Fund revenues were less than the enacted estimates in accordance with KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in the 2000 Kentucky Acts Chapter 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 Road Fund Budget Reduction Plan for fiscal year 2001-2002 in the 2000 Kentucky Acts Chapter 549, Part VII, for state government in accordance with KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the head of the Executive Branch shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding the provisions of KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised Road Fund appropriations levels for budget units of the Executive Branch contained in Road Fund Budget Reduction Order 02-01 and Road Fund Budget Reduction Order 02-02, and confirms and enacts the advances, transfers, and lapses to the Road Fund of non-Road Fund moneys identified in Road Fund Budget Reduction Order 02-01 and Road Fund Budget Reduction Order 02-02.

28. Notwithstanding KRS 138.510, tracks with an average daily handle of one million two hundred thousand dollars ($1,200,000) or more shall be allowed a tax credit equal to twelve thousand dollars ($12,000) multiplied by the number of racing days at the track for the fiscal year beginning after June 30, 2002 and ending June 30, 2003, and twelve thousand dollars ($12,000) multiplied by the number of racing days at the track for the fiscal year beginning after June 30, 2003, and ending June 30, 2004, if an amount equal to at least fifty percent (50%) of the credit is used for capital improvements and at least (50%) is used for horsemen's incentives. Capital improvement means any addition, replacement, or remodeling of a structural unit of the track, including but not limited to the construction of barns used for the track, backstretch facilities for horsemen, paddock facilities, new pari-mutuel and totalizator or equipment, new access roads, new parking facilities, the reconstruction, reshaping, or leveling of the racetrack, the installation of permanent new heating or air conditioning, and installations of a permanent nature forming part of the track structure. Fifty percent (50%) of the amount of the tax credit for the horsemen's incentives shall be allocated to purses at the track and fifty percent (50%) allocated for stabling and transportation costs. The method of dispersal of the stabling and transportation costs shall be agreed upon by the track receiving the tax credit and the horsemen's group or groups contracting with the track. If a track fails to complete a qualifying capital improvement or make qualifying expenditures for horsemen's incentives, the Kentucky Economic Development Finance Authority as created under KRS 154.20-010 shall order the track to repay to the state all or any portion of the amount of the tax credit received by the track. The track receiving the credit shall report quarterly to the Interim Joint Committee on Appropriations and Revenue on the amounts of qualifying capital improvements and expenditures for horsemen's incentives made for which the credit is claimed.

29. Notwithstanding any provision of the Kentucky Revised Statutes, to the extent that any governmental agency purchases motor vehicle liability insurance, sovereign immunity shall be waived to the extent of the insurance coverage.

30. Notwithstanding KRS 97.035(1), (2), and (3), when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, such city and county shall by joint action create a joint city/county department to maintain and conduct a park and recreational system or systems. In such event, the board shall be dissolved as a corporate entity and all assets and liabilities of the board shall be transferred to the joint department. An advisory board may be established by joint agreement of such city and county. Notwithstanding KRS 97.035(1), (2), and (3), any city, except a city of the first class, and a county, except a county containing a city of the first class, operating a joint system under KRS 97.035 may by joint action create a joint city/county department to maintain and conduct a park and recreational system or systems. In such event, the board shall be dissolved as a corporate entity and all assets and liabilities of the board shall be transferred to the joint department. An advisory board may be established by joint agreement of such city and county.

31. As provided in Part V, Funds Transfer, of this Act, any funds remaining in flexible spending accounts of employees of local districts for calendar year 2001 shall be transferred to the credit of the General Fund and any funds remaining in flexible spending accounts of employees of local school districts for calendar year 2002 and calendar year 2003 shall also be transferred to the credit of the General Fund.

32. Notwithstanding the provisions of KRS 139.340, a commercial printer or mailer engaged in business in this state shall not be required to collect use tax on sales of printing or direct mail advertising materials that are both printed out of state and delivered out of state to the United States Postal Service for mass mailing to third party Kentucky residents who are not purchasers of the advertising materials if the commercial printers or mailers:

(a) Maintain records relating to these sales to assist in the collection of the use tax owed; and

(b) File reports as provided in KRS 139.730 if requested by the Revenue Cabinet.

If the commercial printer or mailer complies with these reporting provisions, the purchaser of the printing or direct mail advertising materials described in this section shall have sole responsibility for payment of the use tax imposed in KRS 139.310.

33. Notwithstanding KRS 15.060, books, records or papers are exempted from inspection by assistants and experts employed by the Attorney General to assist in examining the fee bills, accounts, settlements, credits and claims, and the books, records and papers of any officer of the Commonwealth, as provided in accordance with the provisions of KRS 61.878.

Notwithstanding KRS 61.878, any person or public agency may inspect public records that are excluded from the application of KRS 61.870 to 61.884 only upon order of a court of competent jurisdiction. This provision does not apply to records subject to disclosure or publication under KRS 43.080 and KRS 6.915.

34. Notwithstanding KRS 138.146(4), licensed wholesalers are allowed to receive compensation in the amount of twenty cents ($.20) for each three dollars ($3.00) of tax stamps purchased. The compensation is allowed to the licensed wholesaler for the expense of affixing the stamp to the cigarette packages.

35. Notwithstanding KRS 96.895, beginning with the distribution for 2002, each county, city or school district which contains any portion of lands indentified in the report of the Southern Appalachian National Park Commission and the Secretary of the Interior in April 1926 and ceded to the United States in 1942 shall receive any surplus county distributions over and above the total 2001 distribution paid by the Tennessee Valley Authority pursuant to KRS 96.895. Counties that do not contain any portion of lands identified above shall receive their distribution as provided by KRS 96.895. This surplus shall be distributed to each county in proportion to the total percentage of the total land ceded in 1942 located in that county.

36. No funds appropriated in accordance with the provisions of this Act may be expended on advertising campaigns or promotions unless specifically authorized by Kentucky Revised Statutes or in this Act.

37. Notwithstanding the provisions of KRS Chapter 139, forming rolls and guides used in the hot rolling processing of ferrous metals for medium weight structural steel shall be exempt from the provisions of that chapter.

38. Notwithstanding KRS 143A.030, the taxes imposed in KRS 143A.020 do not apply to fluorspar, lead, and barite severed for any purposes or to rock, limestone or gravel used for privately maintained but publicly dedicated roads or limestone when sold or used by the taxpayer for agricultural purposes so as to qualify for exemption from sales and use taxes as provided in KRS 139.480.

PART IV

STATE SALARY/COMPENSATION AND EMPLOYMENT POLICY

1. Notwithstanding KRS 18A.010(2), for the 2002-2004 fiscal biennium, the total number of filled permanent positions in the agencies of the Executive Branch is limited to the number authorized in the enacted State/Executive Budget of the Commonwealth for the 2002-2004 fiscal biennium. The provisions of this section do not apply to the employees of the General Assembly, the Legislative Research Commission, or the Court of Justice.

2. On July 1, 2002, the Personnel Cabinet shall establish a record of budgeted permanent and other equivalent positions based upon the enacted State/Executive Budget of the Commonwealth and any adjustments authorized by provisions in this Act. The total number of filled and vacant positions of full-time, part-time, and interim employees shall not exceed the authorized complements pursuant to this section. When an agency head certifies that an emergency employment situation exists for a limited time within a fiscal year, the State Budget Director may approve, and the Secretary of Personnel may authorize, the employment of individuals in addition to the authorized complement for the duration of the limited time period so authorized within the fiscal year. A copy of records, certifications, and actions authorized in this section shall be provided to the Interim Joint Committee on Appropriations and Revenue on a monthly basis.

3. Notwithstanding KRS 18A.355(1), a cost-of-living adjustment of two and seven tenths percent (2.7%) is provided in fiscal year 2002-2003 and fiscal year 2003-2004 on the base salary or wages of each eligible state employee on their anniversary date.

4. Each budget unit with an authorized personnel complement in excess of the number of positions funded in this Act shall submit a plan to the Office of State Budget Director for approval identifying adequate appropriate funding source(s) prior to filling any positions above the funded number. Upon approval of the State Budget Director, the agency budget may fill the authorized number of positions.

5. Notwithstanding KRS 18A.225, if a state employee's residence and place of employment are located in the same county, and if a level two participating hospital is not located within that county, the employee may select a plan offered in a contiguous county in which a level two participating hospital is located and receive the same state contribution for the plan as a resident of the contiguous county who selects that same plan.

PART V

FUNDS TRANSFER

1. It is the finding of the General Assembly of the Commonwealth of Kentucky that the financial condition of state government requires the following action.

2. Notwithstanding the requirements of the statutes set forth below, there is transferred from the Restricted Funds enumerated below to the General Fund the following amounts in fiscal year 2001-2002, fiscal year 2002-2003, and fiscal year 2003-2004:

		2001-2002	2002-2003	2003-2004
1.	Department of Insurance	2,500,000	6,000,000	6,000,000

	(KRS 304.2-400)			
2.	Fire and Tornado Insurance Fund (KRS 56.095; 56.150; 56.180)		500,000	500,000
3.	Department of Insurance, Kentucky Access (KRS 304.17B-001 to 304.17B-031)		36,000,000	13,000,000
4.	Department of Financial Institutions (KRS 287.485)		1,000,000	2,000,000
5.	Underground Petroleum Storage Tank Environmental Assurance Fund (KRS 224.60-100 to 224.60-160)		71,000,000	20,500,000
6.	Technology Trust Fund (1998 Ky. Acts ch. 615, Part X, Sec. 5 II. 5)		13,800,000	
7.	Flexible Spending Account (KRS 18A.225 (2)(g))		13,000,000	
8.	Health Purchasing Alliance Refund (KRS 304.17A-071)		2,300,000	
9.	State Employees Workers' Compensation Reserve (KRS 18A.370 to KRS 18A.385)		4,000,000	
10.	Alcoholic Beverage Control (KRS 243.025)		250,000	250,000
11.	Asbestos Litigation Fund			340,600
12.	Kentucky State Fair Board - Freedom Hall Portable Trailers (2000 Ky. Acts ch. 549, Part II, Sec. O(2)(c))		300,000	
13.	Bond Pool Fund (KRS 350.700)		1,000,000	2,000,000
14.	Health Purchasing Alliance (Account No. 7200-C47-AE00)		1,330,200	
15.	Humana Escrow (Account No. 7200-C47A-C00)		42,100	
16.	Health Insurance Adjustment (Account No. 7200-C47-B126)		300,700	
17.	School Districts Flexible Spending Accounts	14,000,000	14,000,000	14,000,000
18.	Commonwealth Choice			1,326,000
19.	Kentucky Law Enforcement Foundation Program Fund - (KRS 15.430; 42.190; 136.392)		1,363,000	
20.	Economic Development Cabinet - Office of the Commissioner for the New Economy		1,500,000	1,500,000
21.	Kentucky State Fair Board - DOT Building and Roof Repair		1,500,000	1,800,000

3. The Finance and Administration Cabinet shall transfer the funds enumerated below to the General Fund in fiscal year 2002-2003 and fiscal year 2003-2004:

		2002-2003	2003-2004
1.	Maintenance Pool		

	Investment Income		4,000,000	3,000,000
2.	Statewide Land Acquisition Fund		1,800,000	
3.	Capital Construction and Equipment Purchase Contingency Fund – (KRS 45.770) - Department of Education - (Part II, Section C, Project Item 1a and 1b)		1,517,000	
4.	Capital Construction and Equipment Purchase Contingency Fund – (KRS 45.770) Justice Cabinet - Corrections Management - (Part II, Section H, Project Item 4b and 4d)		1,860,000	
	TOTAL	16,500,000	178,363,000	66,216,600

PART VI

GENERAL FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130 and 48.600, a General Fund Budget Reduction Plan is enacted for state government in the event of an actual or projected deficit in estimated General Fund revenue receipts of $6,842,050,551 in fiscal year 2001-2002, $7,093,341,900 in fiscal year 2002-2003, and $7,335,500,000 in fiscal year 2003-2004 as modified by related Acts and actions of the General Assembly in an extraordinary or regular session. Direct services, obligations essential to the minimum level of constitutional functions, and other items that may be specified in this Act, are exempt from the requirements of this Plan. Each branch head shall prepare a specific plan to address a proportionate share of the General Fund revenue shortfall applicable to the respective branch. No budget revision action shall be taken by a branch head in excess of the actual or projected deficit.

The Governor, the Chief Justice, and the Legislative Research Commission shall direct and implement reductions in allotments and appropriations only for their respective branch budget units as may be necessary as well as take other measures which shall be consistent with the provisions of this Part and general branch budget bills.

In the event of a revenue shortfall under the provisions of KRS 48.120, General Fund budget reduction actions shall be implemented in the following sequence:

(1) The Local Government Economic Assistance and the Local Government Economic Development Funds shall be adjusted by the Secretary of the Finance and Administration Cabinet to equal revised estimates of receipts pursuant to KRS 42.4582 as modified by the provisions of this Act.

(2) Transfers of excess unappropriated and unbudgeted Restricted Funds other than fiduciary funds shall be applied as determined by the head of each branch for its respective budget units.

(3) Excess General Fund appropriations which accrue as a result of personnel vacancies and turnover, and reduced requirements for operating expenses, grants, and capital outlay shall be determined and applied by the heads of the executive, judicial, and legislative departments of state government for their respective branches. The branch heads shall certify the available amounts which shall be applied to budget units within the respective branches and shall promptly transmit the certification to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission. The Secretary of the Finance and Administration Cabinet shall execute the certified actions as transmitted by the branch heads.

Branch heads shall take care, by their respective actions, to protect, preserve, and advance the fundamental health, safety, legal and social welfare, and educational well-being of the citizens of the Commonwealth.

(4) Funds available in the Budget Reserve Trust Fund shall be applied in an amount not to exceed twenty-five percent (25%) of the trust fund balance in fiscal year 2002-2003 and fifty percent (50%) of the trust fund balance in fiscal year 2003-2004.

(5) Notwithstanding the provisions of KRS 48.130 and KRS 48.600, if the actions contained in subsections (1) through (4) of this section are insufficient to eliminate an actual or projected revenue shortfall in the enacted General Fund revenue receipts, then the Governor is empowered and directed to take necessary actions with respect to the Executive Branch budget units to balance the budget by such actions conforming with the criteria expressed in the preceding subsection.

PART VII

ROAD FUND BUDGET REDUCTION PLAN

There is established a Road Fund Budget Reduction Plan for fiscal year 2002-2003 and fiscal year 2003-2004. Notwithstanding the provisions of KRS 48.130, in the event of an actual or projected shortfall in estimated Road Fund revenue receipts of $1,097,539,300 in fiscal year 2002-2003 and $1,131,218,300 in fiscal year 2003-2004 as determined by KRS 48.120(3), the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service. No budget revision action shall be taken in excess of the actual or projected deficit.

PART VIII

ROAD FUND SURPLUS EXPENDITURE PLAN

Notwithstanding KRS 48.140 and pursuant to KRS 48.710, there is established a plan of expenditures from the Road Fund

Surplus Account. All moneys in the Road Fund Surplus Account shall be deposited in the State Construction Account and utilized to support projects in the 2002-2004 Biennial Highway Construction Program.

PART IX

SPECIAL PROVISIONS

GOVERNMENT OPERATION

1. GOVERNOR'S OFFICE OF TECHNOLOGY

a. Office of Statewide 911 Coordination: The Office of Statewide 911 Coordination is established within the Governor's Office of Technology. The Office of Statewide 911 Coordination shall have the responsibility for monitoring, enforcing, and coordinating 911 and enhanced 911 system compliance and implementation statewide. The office shall include a statewide 911 coordinator along with appropriate staff to accomplish the objectives as stated in this section. The office shall provide education, training, and technical assistance for public safety answering points and private telephone system owners and operators. The 911 coordinator shall collect data from public safety answering points and private telephone system owners and operators and shall make a report to the Legislative Research Commission in August of each year proceeding the regular session. The report shall contain recommendations concerning necessary modifications to compliance requirements occasioned by technological and other advances or changes in telephone system equipment.

b. The Legislative Research Commission shall direct the Interim Joint Committee on Health and Welfare to study the feasibility of implementing an electronic health network in this Commonwealth using federal and voluntarily contributed private funds. The committee shall report its finding to the Legislative Research Commission no later than December 1, 2002.

2. ATTORNEY GENERAL

a. Deputy and Assistant Attorneys General Salaries: Notwithstanding KRS 15.100, the Attorney General may set the salary for the deputy attorney general and the salary for the two (2) assistant deputy attorneys general at a rate less than that required in KRS 15.100.

b. Health Care Rate Intervention: In addition to such funds as may be appropriated, this Office may request from the Finance and Administration Cabinet, as a necessary government expense, such funds as may be necessary for expert witnesses pursuant to KRS 304.17A-095. The Finance and Administration Cabinet shall approve up to $175,000 for the 2002-2004 biennium for this purpose to the Office of the Attorney General. The Department of Insurance shall provide the Office of the Attorney General any available information to assist in the preparation of a rate hearing pursuant to KRS 304.17A-095.

c. Annual and Sick Leave Service Credit: Notwithstanding any statutory or regulatory restrictions to the contrary, any former employee of the Unified Prosecutorial System who has been appointed to a permanent full-time position under KRS Chapter 18A shall be credited annual and sick leave based on service credited under the Kentucky Retirement System solely for the purpose of computation of sick and annual leave. This provision shall only apply to any new appointment or current employee as of July 1, 1998.

d. Child Sexual Abuse Exams: Notwithstanding KRS 186.1867, the Transportation Cabinet shall review the costs related to the distribution of child victim's license plates. Any revenue received from the sale or renewal of these plates in excess of actual costs shall be transferred to the Child Victims Trust Fund on an annual basis.

e. Legal Services Contracts: The Attorney General may present proposals to state agencies specifying legal work that is presently accomplished through Personal Service Contracts that indicate the Office of the Attorney General's capacity to perform the work at a lesser cost. State agencies may agree to make arrangements with the Attorney General to perform the legal work and compensate the Attorney General for the legal services.

f. Public Funds: Notwithstanding any provision of common law or statutory law to the contrary, any funds or other assets of any kind or nature, including but not limited to public funds as defined in KRS 446.010, court-ordered settlement agreements under KRS Chapter 367, multi-state settlements, and private funds or assets recovered in a legal action on behalf of the general public, the Commonwealth, or its duly elected statewide public officials shall be deemed public funds, and shall be deposited in the General Fund Surplus Account. The Attorney General shall provide notice to the Governor's Office of Policy and Management and the Legislative Research Commission of the nature of any funds deposited in this account and no funds shall be disbursed without a specific legislative appropriation by the General Assembly while in a regular or special legislative session. This provision shall not apply to any funds or other assets recovered by judgment, settlement, or legal action by or on behalf of the Commonwealth, or other actions filed by a duly elected statewide public official, if the recovery sought and received is for specific individuals, identified as parties to the action, or persons for whom the recovery is received if identified specifically. Identification includes but is not limited to identification either by individual Social Security numbers, or other identifying number, or by proper name.

3. UNIFIED PROSECUTORIAL SYSTEM

a. Prosecutors Advisory Council Administrative Functions: The Prosecutors Advisory Council shall approve compensation for employees of the Unified Prosecutorial System subject to the appropriation in the Act.

4. AUDITOR OF PUBLIC ACCOUNTS

a. State Agencies Audit Services Contracts: No state agency shall enter into any contract with a non-governmental entity for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within thirty (30) days of receipt of a written request. The agency requesting the audit shall furnish the Auditor of Public Accounts a comprehensive statement of the scope and nature of the proposed audit.

b. Audit Records and Status Reports: The Auditor of Public Accounts shall report in writing each sixty (60) days to the Interim Joint Committee on Appropriations and Revenue the progress of all state audits, together with copies of all completed audits. The auditor shall maintain a record of all time and expenses for each audit or investigation.

c. Charges for Federal, State, and Local Audits: Any additional expense incurred by the Auditor of Public Accounts for auditing Federal Funds, when the audits are mandated by a cognizant federal audit agency, shall be charged to the audited agency when the costs may be charged against Federal Funds. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operation of the office. The Auditor shall maintain a record of all costs and expenditures associated with this provision.

Each quarter, the Auditor of Public Accounts shall notify the Finance and Administration Cabinet concerning the collection status of the fees charged for county audits. If a county government is delinquent in its payment to the Auditor of Public Accounts, the Finance and Administration Cabinet shall withhold any moneys due that county government for the term of one hundred twenty (120) days or until the Auditor of Public Accounts has received full payment from the county. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operations of the office.

The "Single Audit Act of 1984" and the "Single Audit Act Amendments of 1996" (OMB Circular No. A-133) have changed the method by which federal moneys to state agencies are audited. As a result of this federal change, the Auditor of Public Accounts is budgeted to receive additional agency receipts which shall be allotted by the Governor's Office for Policy and Management for programs authorized in the enacted budget for the Auditor of Public Accounts by the 2002 General Assembly, subject to the conditions and procedures provided in this Act.

Any expenses incurred by the Auditor of Public Accounts for auditing a state or local government agency or other entity upon its request, or for performing an audit required by statute unless the audit is required by those standards governing the audit of the Commonwealth's Comprehensive Financial Report or the provisions contained in the "Single Audit Act of 1984" and the "Single Audit Act Amendments of 1996", shall be charged to the agency or entity audited.

Any expense incurred by the Auditor of Public Accounts for auditing individual governmental entities shall be charged to the agency receiving audit services when expenses are mutually agreed upon or when a legislatively mandated study by the Auditor of Public Accounts has determined the need for the audit.

5. DEPARTMENT OF AGRICULTURE

a. Agriculture - PACE Program: The PACE board may contract directly with land surveyors, real estate appraisers, and other licensed professionals as necessary.

6. PERSONNEL BOARD

a. Administrative Hearings Notice: Notwithstanding KRS 13B.050(2), the Personnel Board shall send notices of administrative hearings by first-class mail.

7. LOCAL GOVERNMENT

a. Flood Control Matching Fund Project Review: The Department for Local Government shall transmit a copy of the application for a flood-related project to be funded from the flood control matching fund to the Natural Resources and Environmental Protection Cabinet with a request for a review of the project pursuant to KRS Chapter 151.

8. GOVERNOR'S OFFICE OF VETERANS' AFFAIRS

a. Weekend and Holiday Premium Pay Incentive: The Kentucky Veterans' Center at Wilmore is authorized to continue the weekend and holiday premium pay incentive component of the Personnel Pilot Program for the fiscal biennium 2002-2004.

b. General Fund Operating Support: Notwithstanding KRS 45.229, the unexpended balance of the General Fund appropriation provided to the Eastern Kentucky Veterans Center, the Western Kentucky Veterans Center, and the Thompson/Hood Veterans Center in fiscal year 2001-2002 shall not lapse and shall be carried forward into fiscal year 2002-2003; the unexpended balance of the General Fund appropriation in fiscal year 2002-2003 shall not lapse and shall be carried forward into fiscal year 2003-2004.

c. Congressional Medal of Honor Recipients - Travel and Per Diem: The Commissioner of Veterans' Affairs may approve travel and per diem expenses for Kentucky residents who have been awarded the Congressional Medal of Honor for his or her attendance at Veterans, Military or memorial events in the Commonwealth of Kentucky.

9. GOVERNOR'S OFFICE OF EARLY CHILDHOOD DEVELOPMENT

a. Notwithstanding KRS 200.151, 2000 Ky. Acts, ch. 549, Part XI, 3, B.1.a. and any other provisions in this Act, Phase I Tobacco Settlement Funds in the amount of $1,000,000 shall lapse to the General Fund at the close of fiscal year 2001-2002.

10. KENTUCKY AGENCY FOR SUBSTANCE ABUSE POLICY

a. Notwithstanding KRS 304.17B-003, 2000 Ky. Acts, ch. 549, Part XI, C.1.a, and any other provisions in this Act, Phase I Tobacco Settlement Funds in the amount of $1,000,000 shall lapse to the General Fund at the close of fiscal year 2001-2002.

11. KENTUCKY RETIREMENT SYSTEMS

a. Appropriation Revision Process: Notwithstanding KRS 48.630 or any other statute or provision of law to the contrary, the state-administered retirement systems shall be exempt from all conditions and procedures with respect to the authority of the State Budget Director and the Secretary of the Finance and Administration Cabinet to review and approve unbudgeted restricted funds or revisions to appropriations in excess of any enacted branch budget bill; however, in the event of a revision, the state-administered retirement systems shall report for approval revisions to appropriations in excess of any enacted branch budget bill to the Interim Joint Committee on Appropriations and Revenue and transmit an informational copy to the State Budget Director.

12. KENTUCKY RIVER AUTHORITY

a. Water Withdrawal Fees: The water withdrawal fees imposed by the Kentucky River Authority shall not be subject to state and local taxes. Notwithstanding that portion of the provision of KRS 151.710(10) that directs the Finance and Administration Cabinet to provide administrative services for the Kentucky River Authority, Tier I water withdrawal fees shall be used to support the operations of the Authority and for contractual services for water supply and quality studies.

13. EDUCATION PROFESSIONAL STANDARDS BOARD

a. Employment of Leadership Personnel: Notwithstanding KRS 18A.005 to 18A.200, the Education Professional Standards Board shall have the sole authority to determine the employees of the Education Professional Standards Board staff who are exempt from the classified service and to set their compensation comparable to the competitive market.

ECONOMIC DEVELOPMENT

14. OFFICE OF THE SECRETARY

a. New Economy: Funding for the Commissioner for the New Economy: Notwithstanding KRS 154.20-030 to 154.20-570, interest income earned on balances in the High-Technology Construction Pool and the High-Technology Investment Pool shall be used to support the Office of the Commissioner for the New Economy within the Department of Economic Development. Upon the recommendation of the Commissioner, these funds are authorized and appropriated to fund High-Technology Construction/Investment Pool projects.

Notwithstanding KRS 164.6017, the Kentucky Science and Technology Corporation shall submit an annual plan dealing with the allocation of funds from the Science and Technology Funding Program, excluding funds for the Knowledge-Based Economy Academic Programs, for review and approval by the Council on Postsecondary Education and the Office of the New Economy prior to the Council on Postsecondary Education executing a contract with the Corporation to administer Science and Technology Funding Programs.

Loan repayments received by the High-Technology Construction and High-Technology Investment Pools are appropriated in addition to amounts specified in Part II.

b. New Economy: Distribution of New Economy High-Tech Investment/Construction Pool: No distribution of any funds appropriated for the New Economy High-Tech Investment/Construction Pool, the Commissioner of the Office of the New Economy shall be made without prior written approval of the State Budget Director and review by the Interim Joint Committee on Appropriations and Revenue. If the Interim Joint Committee on Appropriations and Revenue objects to the recommendations of the Commissioner of the Office of the New Economy, the recommendations shall be invalid unless they are revised to comply with the objections of the committee, or the committee is informed in writing, in detail, within thirty (30) days of the committee's objections that a determination has been made not to comply with the objections of the committee.

15. FINANCIAL INCENTIVES

Notwithstanding KRS 154.20-267, the total amount of Kentucky Investment Fund Act (KIFA) tax credits available to any single investment fund shall not exceed, in aggregate, $1,000,000 for all investors and all taxable years. Notwithstanding KRS 154.20-267, the total Kentucky Investment Fund Act (KIFA) tax credits available for all investors in all investment funds shall not exceed $3,000,000 per fiscal year.

The Department of Financial Incentives shall submit for approval by the Commissioner of the Office of the New Economy all contracts resulting from action taken by the Kentucky Economic Development Finance Authority based on recommendations made by the Commissioner of the Office of the New Economy.

Those projects recommended by the Commissioner for the New Economy to support knowledge-based economy initiatives shall be acted upon by the authority within sixty (60) days following the recommendation by the Commissioner.

DEPARTMENT OF EDUCATION

16. SUPPORT EDUCATION EXCELLENCE IN KENTUCKY (SEEK) PROGRAM

a. Allocation of Support Education Excellence in Kentucky Funds: The General Fund appropriations to the base Support Education Excellence in Kentucky (SEEK) program are intended to provide a base guarantee of $3,116 per student in average daily attendance in fiscal year 2002-2003 and $3,201 per student in average daily attendance in fiscal year 2003-2004 as well as to meet the other requirements of KRS 157.360, notwithstanding KRS 157.360(2)(c).

Nothing in this legislation shall be construed as prohibiting the contracting out of pupil transportation services.

Funds appropriated to the Support Education Excellence in Kentucky program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. The total appropriation for the Support Education Excellence in Kentucky (SEEK) program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 to 157.440. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, upon the written request of the Commissioner of Education and with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the cited sections of the Kentucky Revised Statutes, but any increase of the total appropriation to the Support Education Excellence in Kentucky program is subject to Part III, General Provisions, of this Act, and the provisions of KRS Chapter 48. If funds appropriated to the Support Education Excellence in Kentucky program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, allotments to local school districts may be reduced in accordance with KRS 157.430.

b. Certified and Classified Staff Cost of Living Adjustments: The General Assembly encourages local school districts to provide a two and seven-tenths percent (2.7%) cost-of-living adjustment to certified and classified employees in fiscal year 2002-2003.

c. Consumer Price Index: For purposes of implementing the provisions of KRS 157.420, the percent increase in the average annual Consumer Price Index for all urban consumers between the two most recent calendar years refers to calendar year 2001 compared to calendar year 2000; the resulting two and eight tenths percent (2.8%) increase shall be applicable in fiscal year 2002-2003 and fiscal year 2003-2004.

d. SEEK Over Appropriation: Funds allocated for the SEEK base and its adjustment factors that are not needed for the base or a particular adjustment factor may be allocated to other adjustment factors, if funds for that adjustment factor are not sufficient. Excess funds that exist after the SEEK base and all SEEK adjustment factors have been fully funded shall be reallocated for the purpose of providing additional SEEK funding to local school districts. The reallocation of excess funds shall be in accordance with 702 KAR 3:270 promulgated under KRS 157.310 to KRS 157.440. Supplemental SEEK payments during fiscal biennium 2002-2004 shall not become part of the continuing SEEK base. The Governor, upon the written recommendation of the Secretary of the Finance and Administration Cabinet and the written request of the Commissioner of Education, shall certify that excess funds are available.

e. Final SEEK Calculation: Notwithstanding KRS 157.410, on or before March 1 of each year the chief state school officer shall determine the exact amount of the public common school fund to which each district is entitled and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of final calculation and for each successive month thereafter.

f. Local Revenue: Notwithstanding KRS 160.470(1), all local school districts shall be permitted to levy a tax rate for calendar year 2002 and 2003 that does not produce four percent (4%) more revenue than the compensating tax rate as defined in KRS 132.010.

17. EXECUTIVE POLICY AND MANAGEMENT

a. Employment of Personnel: Notwithstanding KRS 18A.115, the Department of Education may fill, through memoranda of agreement, not more than fifty percent (50%) of its existing authorized positions below the division director level with individuals employed as school administrators and educators in Kentucky.

b. Employment of Leadership Personnel: Notwithstanding KRS 18A.005 to 18A.200, the Kentucky Board of Education shall continue to have sole authority to determine the employees of the Department of Education who are exempt from the classified service and to set their compensation comparable to the competitive market.

c. Medicaid Reimbursement Funds: The Department of Education is authorized to implement a strategy, in conjunction with local school districts and the Department for Medicaid Services within the Cabinet for Health Services, to maximize federal reimbursement under the Medicaid program for Medicaid eligible administrative functions performed by elementary and secondary school faculty, staff, and administrators. Any increase in federal reimbursement attributable to such a strategy shall not be expended by the Department of Education or Cabinet for Health Services, Medicaid Services but shall be accumulated pending action and review by the 2003 Regular Session of the General Assembly.

18. LEARNING AND RESULTS SERVICES

a. Funding for Employer Health and Life Insurance and Retirement Contributions: If the costs for health insurance or life insurance coverage for employees of local school districts exceed the levels of appropriated funds, any unexpended Support Education Excellence in Kentucky appropriations may be used to offset the unbudgeted costs. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. If the appropriations for either local school district teachers' retirement employer match or local district health and life insurance fall short of statutory requirements, any surplus funds from the other appropriation unit may be transferred to the appropriation unit experiencing the shortfall. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. Notwithstanding the provisions of KRS 45.229, any unexpended local school district teachers' retirement employer match funds shall not lapse at the end of fiscal year 2002-2003 but shall be available if needed in fiscal year 2003-2004. Included within the General Fund appropriation for local school district employee health and life insurance is funding to cover costs associated with the Personnel Cabinet's administrative activities including providing life and health insurance for local school district employees. Accordingly, the per month per employee assessment as contained in Appendix B of the budget instructions promulgated by the Legislative Research Commission and communicated to agencies by the Office of State Budget Director shall be remitted to the Personnel Cabinet by the Department of Education from the General Fund appropriation for local school district health and life insurance.

b. Kentucky Education Technology System: Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650 to 157.665, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Kentucky Department of Education, shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds.

c. Family Resource and Youth Services Centers: Funds appropriated to establish and support Family Resource and Youth Services Centers shall be transferred in fiscal year 2002-2003 and in fiscal year 2003-2004 to the Cabinet for Families and Children consistent with the intent of KRS 156.497. The Cabinet for Families and Children is authorized to use, for administrative purposes, no more than three percent (3%) of the total funds transferred from the Department of Education for the Family Resource and Youth Services Centers. If a certified person is employed as a director or coordinator of a Family Resource or Youth Services Center, that person shall retain his or her status as a certified employee of the school district.

If seventy percent (70%) or more of the funding level provided by the state is utilized to support the salary of the director of a center, that center shall provide a report to the Cabinet for Families and Children identifying the salary of the director.. The Cabinet for Families and Children shall transmit any reports received from Family Resource and Youth Service Centers pursuant to this provision to the Legislative Research Commission.

d. Area Centers and Vocational Departments Funding Formula: All funds appropriated in the budget for supplementing the programs and operations of the area centers and vocational departments of the following districts shall be distributed by a weighted formula that is promulgated in an administrative regulation by the Kentucky Board of Education: Allen County, Ballard County, Bowling Green Independent, Boyd County, Carter County, Christian County, Covington Independent, Edmonson County, Fayette County, Fleming County, Franklin County, Grayson County, Henderson County, Lawrence County, Lewis County, Livingston County, Magoffin County, Marshall County, McCreary County, Newport Independent, Powell County, Simpson County, Trigg County, Union County, and Jefferson County. The weighted formula shall take into consideration the different costs of programs based on requirements for facilities, materials, and equipment to meet program standards, the number of students enrolled, and the number of hours students are enrolled. If the funding formula results in a reduction of funds from the fiscal year 2001-2002 allocation for a center or department that has maintained the same number and category of programs and meets all other criteria, the center shall receive no less than seventy percent (70%) of its fiscal year 2001-2002 allocation.

e. School Rewards Trust Fund: Distribution of rewards to local schools shall be based on policy established by the Kentucky Board of Education.

f. Kentucky Education Technology System: The School for the Deaf and the School for the Blind shall be fully eligible, along with local school districts, to participate in the Kentucky Education Technology System in a manner that takes into account the special needs of the students of these two (2) schools.

g. Allocation of Safe School Funds: Notwithstanding KRS 158.446, the General Fund appropriations in this Act in Part I, D., Section 32, Learning and Results Services, the Center for School Safety shall develop and implement allotment policies for all moneys received for the purposes of KRS 158.440 to 158.442 and KRS 158.445 to 158.446.

h. Gifted and Talented Funds: All moneys appropriated for the Gifted and Talented Program shall be expended by local school districts solely for purposes and activities relating to the Gifted and Talented Program.

EDUCATION, ARTS, AND HUMANITIES

19. TEACHERS' RETIREMENT SYSTEM

a. Highly Skilled Educators' Retirement Benefits: Notwithstanding KRS Chapter 158 and KRS Chapter 161, salary supplements received by persons selected as highly skilled educators on or after July 1, 2000, shall not be included in the total salary compensation for any retirement benefits to which the employee may be entitled.

20. SCHOOL FACILITIES CONSTRUCTION COMMISSION

a. Local Districts Facilities Plans: Notwithstanding the provisions of KRS 157.622(3), funds allocated by the School Facilities Construction Commission to local school districts for fiscal year 2002-2003 and fiscal year 2003-2004 shall be applied to the projects listed in the most current facility plan approved for the district by the Kentucky Board of Education and the funds shall be applied to projects in the priority order listed in the plan.

b. Offers of Assistance: Notwithstanding KRS 157.622(5), a local school district may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed six (6) years.

c. Accumulated Credits: Notwithstanding 750 KAR 1:010, Section 9, Public School District 235 shall not forfeit fund credit accumulated.

d. Facilities Plans: Notwithstanding KRS 157.620(5), any school district that did not receive an offer of assistance during the 2000-2002 biennium that resulted from the one hundred million dollar ($100,000,000) authorization of the 2000

General Assembly, that has an unmet need established based on the facility plan in effect on June 30, 2002 shall receive an offer of assistance based on any increase to the above-referenced authorization made by the 2002 General Assembly that is not specifically designated for another purpose.

21. KENTUCKY EDUCATION TELEVISION

a. High School Academic and Athletic Events: Kentucky Educational Television shall develop a plan for broadcasting high school academic and athletic events involving regional and statewide competition. The plan shall include, but not be limited to, cost analysis, public opinion survey, Program event offerings and Broadcast schedule. The plan shall be completed and reported to the Interim Joint Committee on Appropriations and Revenue and the Legislative Research Commission by July 1, 2003.

22. KENTUCKY HISTORICAL SOCIETY

a. Cemetery Preservation:

The Kentucky Historic Cemetery Preservation Program is created to provide financial and technical assistance in the restoration, preservation, and maintenance of historic cemeteries. The program shall be administered by the Kentucky Historical Society. The program may seek and receive assistance from any state or local government agency, institution of public higher education, institution of private higher education, federal agency, or other person or agency public or private. The program, in addition to any appropriation by the General Assembly, may seek and receive grants and other funding from any agency or organization, public or private, and from private business entities and private persons. All funds received by the program shall be placed in a trust and agency account, which shall not lapse, in the State Treasury and which shall be known as the Historic Cemetery Preservation Program fund. The Kentucky Historical Society shall:

(a) Apply for grants and other funding to operate the program;

(b) Administer funds received by the program from any source, make grants, authorize technical assistance, and carry out any other function authorized for the program by statute;

(c) Promulgate administrative regulations pursuant to KRS Chapter 13A as necessary for the proper administration and operation of the program;

(d) Receive applications for funding of historic cemetery preservation grants and make recommendations with regard to each application for funding;

(e) Receive applications for technical assistance for the preservation and maintenance of historic cemeteries, and make recommendations with regard to each application; and

(f) Provide educational programs with regard to the preservation and maintenance of historic cemeteries.

An application for funding by the Society for technical assistance may be made for the purpose of preservation of any historic cemetery.

An application for funding may be made by an agency of the Commonwealth, a city, county, urban-county, charter county, or consolidated local government; a not-for-profit cemetery; a not-for-profit historic or genealogical organization; or a not-for-profit local, community, or civic group.

Grants may be made by the Society for equipment, technical consulting, repair of tombstones, monuments and other similar objects, fencing, purchase and placement of markers or signage or other embellishments denoting the historical significance of the cemetery, and wages for nonrecurring and nonroutine maintenance of a cemetery.

No grant funds shall be used for wages for routine maintenance.

Grant funds authorized by the Society shall be expended only for the purposes authorized in writing by the Society. Proper receipts and accounting shall be required by the Society. Any funds allotted shall be expended prior to the expiration of two (2) years from the date of their award and funds remaining unexpended two (2) years from the date of their award shall be returned to the Society.

Grant funds provided by the Society shall not be utilized for the preservation or maintenance or any other purpose at a cemetery operated for profit. No grant funds shall be utilized for a religious purpose.

No grant of funds provided by the Society shall obligate the board to continue the funding beyond any one (1) grant period.

The Society shall require the recipient of grant funds to match grant funds allocated by the Society on a dollar-for-dollar basis.

The Society shall require the property owner of a cemetery which is to receive grant funding to execute a written easement prior to the receipt of those grant funds which grants reasonable access to the cemetery to relatives of the deceased, bona fide genealogists, bona fide archaeologists, and representatives of the Society for a period of not less than five (5) years from the date of the receipt of the grant funds. Failure of the cemetery or its owner or operator to comply with the access requirements of this subsection shall result in withdrawal of unexpended funds and a bar from future funding for a period of ten (10) years.

The Society may require execution of a contract by the cemetery or its owner or operator prior to the receipt of grant funds which covers any other action required by the Society for the receipt of grant funding or assistance which the Society deems necessary.

No organization which is not a cemetery or its owner or operator shall provide grant funds, maintenance, or other services for a cemetery which has not executed any easement or contract required prior to the provision of the maintenance, funding, or other services.

Restricted Funds of $2,200,000 attributable to Multi-State Consumer Protection Lawsuit Settlement Proceeds shall be transferred to the Kentucky Historic Cemetery Preservation Program. In fiscal year 2002-2003, $1,450,000 is appropriated from these funds for grants subject to a dollar for dollar cash match. In fiscal year 2003-2004, $250,000 is appropriated from these funds for the Historic Cemetery Preservation Program. The remaining unappropriated Restricted Funds transferred to the Historic Cemetery Preservation Program Fund shall not lapse and shall carry forward from each fiscal year to the succeeding fiscal year. Also included within the above appropriated amounts is $250,000 in each fiscal year of the biennium for cemetery preservation grants to be approved by the Society subject to a dollar-for-dollar cash match certified to the Society from individual public or private grant applicants.

Notwithstanding the provisions of KRS 42.500, the Kentucky Historical Society may expend interest earnings from the Kentucky Historic Cemetery Preservation Program Fund for program administration upon application to and approval from the State Budget Director whose approval shall be reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.630. Funds credited to the Historic Cemetery Preservation Program Fund shall be invested by the Finance and Administration Cabinet according to existing law. The Historical Society may not expend more than ten percent (10%) of the funds received in each fiscal year for the purpose of carrying out the administrative tasks associated with the administration of the program.

23. DEPARTMENT FOR LIBRARIES AND ARCHIVES

a. Undistributed moneys: Notwithstanding KRS 48.005, undistributed moneys received by a result of litigation with a book supplier shall be appropriated to the Department of Libraries and Archives for the benefit of libraries in the Commonwealth.

CABINET FOR FAMILIES AND CHILDREN

24. CABINET WIDE

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the Statutory Budget Memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet. Phase I Tobacco Settlement funds appropriated to the Cabinet may be used as state match to maximize Federal Funds available through the Child Care Development Fund.

b. Human Services Transportation Delivery: Notwithstanding KRS 281.014, KRS 281.870, KRS 281.872 or any other statute or provision of the law to the contrary, the Cabinet for Families and Children shall not participate in the Human Services Transportation Delivery program or the Coordinated Transportation Advisory Committee effective July 1, 2002.

25. COMMUNITY BASED SERVICES

a. Education for Recipients of Public Assistance: The Department for Community Based Services shall make available to a minimum of seven (7%) percent of total adult public assistance recipients placements in Postsecondary or Vocational education. The recipients shall receive all support services provided to employed public assistance recipients including transportation and child care. The funding source shall be determined by the Cabinet for Families and Children. Work requirements shall include those required by the postsecondary or vocational educational placement as part of the required program of study or financial assistance. If allowable by Federal regulations related to Welfare Reform work participation rates, work requirements shall be limited to those required by the postsecondary or vocational educational placement as part of the required program of study or financial assistance.

b. Notwithstanding KRS 200.151, 2000 Ky. Acts, ch. 549, Part XI, B.2.a., and any other provisions in this Act, Phase I Tobacco Settlement Funds in the amount of $1,500,000 shall lapse to the General Fund at the close of fiscal year 2001-2002.

c. Severely Emotionally Disturbed Children: Included in the General Fund appropriation is $600,000 in fiscal year 2002-2003 and $600,000 in fiscal 2003- 2004 to provide services for state-committed severely emotionally disturbed children.

d. Child Support Contracting Officials: Included in the appropriations is support for Child Support Contracting Officials to be maintained at the fiscal year 2001-2002 total contracted level of $33,185,100. Up to $1,000,000 in fiscal year 2002-2003 and $1,000,000 in fiscal year 2003-2004 of Child Support Performance Award Funds may be utilized in the Child Support Contracting Officials Contracts to maximize Federal Funds. Funds for individual contracts will be allocated based on spending and performance patterns utilizing an equity plan negotiated between the Cabinet for Families and Children and the County Attorney Association.

HEALTH SERVICES

26. CABINET FOR HEALTH SERVICES

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the Statutory Budget Memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet.

27. MEDICAID ADMINISTRATION

a. Transfer of General Fund or Restricted Funds from Medicaid Benefits to Medicaid Administration: It is the intent of the General Assembly that the Secretary of the Cabinet for Health Services be permitted to transfer from Medicaid Benefits to Medicaid Administration a total of up to $3,500,000 over the biennium of the General Fund or Restricted Funds appropriations from the Medicaid Benefits budget to the Medicaid Administration budget to be used for technical assistance and costs associated with achieving Health Insurance Portability and Accountability Act (HIPAA) compliance for the Medicaid Management Information System. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Upon concurrence of the State Budget Director and prior to the transfer, the Secretary shall present the proposed plan to the Interim Joint Committee on Appropriations and Revenue.

b. Kentucky Patient Access to Care Program (KenPAC) Reimbursement: The Medicaid Benefits Budget includes funds to continue an Enhanced Kentucky Patient Access to Care Program (KenPAC) with reimbursement to gatekeeper providers on a sliding scale of $3 to $9 per member per month based upon performance and quality criteria. The Department for Medicaid Services shall promulgate administrative regulations which reflects this Act.

c. Medicaid Service Category Expenditure Information: No Medicaid managed care contract shall be valid, and no payment to a Medicaid managed care vendor by the Finance and Administration Cabinet or Cabinet for Health Services shall be made, until the Medicaid managed care contract contains a provision that the contractor shall collect Medicaid expenditure data by the categories of services paid for by the Medicaid program. Actual statewide Medicaid expenditure data by all categories of Medicaid services, including mandated and optional Medicaid services, special expenditures/offsets, and Disproportionate Share Hospital payments by type of hospital, shall be compiled by the Department for Medicaid Services for all Medicaid providers and forwarded to the Interim Joint Committee on Appropriations and Revenue on a quarterly basis. Projections of Medicaid expenditures by categories of Medicaid services shall be provided to the Interim Joint Committee on Appropriations and Revenue upon request.

d. Administrative Service Organization: The Department for Medicaid Services shall, no later than July 1, 2002, initiate a formal procurement process, pursuant to KRS Chapter 45, to contract with an Administrative Service Organization (ASO). This organization shall assist with the administration of the Kentucky Access to Patient Care Program (KenPAC) for all geographic areas of the Commonwealth except those areas covered by the Region III Medicaid Partnership (Passport Health Plan). Responsibilities of the ASO shall include, but not be limited to: data collection and analysis for purposes of utilization management of KenPAC services; client education and assignment; provider recruitment and education; physician profiling including an analysis of cost and utilization by category of service (i.e. inpatient, outpatient, emergency room (ER), laboratory, ambulatory, pharmacy and home health) and an analysis of cost by diagnoses codes for peer comparisons of utilization; support services for KenPAC primary care providers including disease management, a help desk for the management of ER services, and the restructuring of payment methodologies to align with utilization management goals; the design and management of provider incentives; and measures to assure program integrity and management of the lock-in program. Using improved data collection methods, the ASO shall focus on cost containment and utilization management for all KenPAC services including hospital, home health, pharmacy, durable medical equipment and diagnostics, with a special emphasis on the management of care for high cost utilizers. In order to monitor the effectiveness of managed care through the Primary Care Case Management KenPAC model, an annual report shall be prepared which shall include, but not be limited to, patient-centered measures and an analysis utilizing the National Committee for Quality Assurance Health Plan Employer Data and Information Set (HEDIS) quality and use of services measures. HEDIS measures currently include: childhood immunization status, adolescent immunization status, breast cancer screening, cervical cancer screening, chlamydia screening for women, controlling high blood pressure, beta-blocker treatment after a heart attack, cholesterol management after acute cardiovascular events, comprehensive diabetes care, the use of appropriate medications for persons with asthma, follow-up after hospitalization for mental illness, antidepressant medication management, advising smokers to quit, adults' access to preventive/ambulatory health services, childrens' access to primary care practitioners, prenatal and postpartum care, annual dental visits, practitioner turnover, the frequency of on-going prenatal care, well-child visits in the first 15 months of life, well-child visits in the third, fourth, fifth and sixth year of life, adolescent well-care visits, the frequency of selected procedures, inpatient utilization of general hospital/acute care, ambulatory care (includes ER), inpatient utilization of non-acute care, discharge policies and average length of stay for maternity care, cesarean section, vaginal birth after cesarean section birth rate (VBAC rate), births and average length of stay for newborns, mental health utilization - inpatient discharges and average lengths of stay, mental health utilization - the percentage of members receiving services, chemical dependency utilization - inpatient discharges and average lengths of stay, chemical dependency utilization - percentage of members receiving services and outpatient drug utilization. The annual report shall also include an evaluation of provider-centered measures; the success of an analysis of physician profiling, including financial profiling, and case-mix adjusted profiling; trend rates of the utilization of all KenPAC services; provider surveys; and cost containment realization. The annual report shall also profile patient population measures and trends, including eligibility by age, gender and eligibility category. To the extent possible, the annual report shall also include comparisons to similar programs in peer states, particularly the southern region.

e. Nursing Facility Reimbursement Review: The Cabinet for Health Services shall review the current reimbursement methodology for nursing facility services to determine if current price-based methodology reflects actual direct nursing care costs and promotes quality long term care. The Cabinet shall include the following organizations in this study panel: Kentucky Hospital Association, Kentucky Association of Homes and Services for the Aging, and the Kentucky Association of Health Care Facilities. The report shall be due to the Legislative Research Commission and the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Health and Welfare by December 1, 2002.

f. Medicaid Waiver Applications: Concurrent with submitting an application for a waiver or waiver amendment or a request for a plan amendment to any federal agency that approves waivers, waiver amendments, and plan amendments, the Cabinet for Health Services shall provide to the Interim Joint Committee on Health and Welfare and to the Interim Joint Committee on Appropriations and Revenue a copy, summary, and statement of benefits of the application for a waiver, or waiver amendment or request, for a plan amendment. The Cabinet, at least quarterly, shall provide an update to the Interim Joint Committee on Health and Welfare and to the Interim Joint Committee on Appropriations and Revenue on the status of the application for a waiver or waiver amendment or request for a plan amendment.

28. MEDICAID SERVICES - BENEFITS

a. Disproportionate Share Program: Hospitals shall report indigent inpatient and outpatient care for which, under federal law, the hospital is eligible to receive disproportionate share payments.

b. Hospital Indigent Patient Billing: Hospitals shall not bill patients for services where the services have been reported to the Cabinet and the hospital has received disproportionate share payments for the specific services.

c. Provider Tax Information: Any provider who posts a sign or includes information on customer receipts or any material distributed for public consumption indicating that they have paid provider tax shall also post, in the same size typeset as the provider tax information, the amount of payment received from the Department for Medicaid Services during the same period the provider tax was paid. Providers who fail to meet this requirement shall be excluded from the Disproportionate Share Hospital and Medicaid Program. The Office of Inspector General, Division of Community Health Services, shall include this provision in facilities' annual licensure inspection.

d. Disproportionate Share Hospital Payments: Disproportionate Share Hospital payments shall not exceed the maximum amounts established in the federal law.

e. Quality and Charity Care Trust Fund: No hospital may be reimbursed from both the Quality and Charity Care Trust Fund and the Disproportionate Share Program (DSH) for the same service to the same patient. Any hospital that willfully violates this provision shall be subject to a penalty equal to three (3) times the amount of the improper charge to the funds, which amount shall be credited to the General Fund. The Secretary of the Cabinet for Health Services shall have the authority to secure the patient information as needed from the participating facilities in order to determine compliance and enforce this provision. Each facility billing and receiving reimbursements from the Quality and Charity Care Trust Fund shall be required to identify each patient by Social Security number and indicate whether the patient is classified as indigent or medically needy. Notwithstanding any other provision of this Act or law, in any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement so agree, the General Fund appropriation to fulfill the Commonwealth's contractual obligation relating to the Quality and Charity Care Trust Agreement or any portion thereof, together with any other funds paid to the Quality and Charity Care Trust contractual obligation of the parties, or any portion thereof, shall be transferred to the Department for Medicaid Services as part of its Restricted Funds appropriation for Benefits. In any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement do not agree to transfer all or any portion of the Trust's revenues to the Department of Medicaid Services for Benefits, the Quality and Charity Care Trust shall operate pursuant to its contractual provisions.

f. Kentucky Children's Health Insurance Program: It is the intent of the General Assembly that the Secretary of the Cabinet for Health Services be permitted to transfer from the Medicaid Benefits to the Kentucky Children's Health Insurance Program (KCHIP) General Fund or Restricted Funds appropriations to be used to match the Federal allocation. These transfers may be made to cover both additional regular allocations and redistribution from the federal government. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Upon concurrence of the State Budget Director and prior to the transfer, the Secretary shall make the appropriate appropriation increase request.

g. Intergovernmental Transfers (IGT's): It is the intent of the General Assembly that any funds received through an intergovernmental transfer agreement between the Department of Medicaid Services and other governmental entities, in accordance with a federally approved state plan amendment shall be used to provide for the health and welfare of the citizens of the Commonwealth through the provision of Medicaid Benefits. This allocation shall include but not be limited to funds generated through transfer agreements with county-owned nursing homes, county-owned hospitals, state universities, and other governmental agencies. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Revenues from Intergovernmental Transfers are contingent upon agreement by the parties and, when negotiated, the Secretary shall make the appropriations increase requests pursuant to KRS 48.630.

h. Child Sexual Abuse Exams: The Department for Medicaid Services shall develop a reimbursement schedule to compensate participating health care providers for the full cost of providing child sexual abuse examinations for eligible children to the extent funds are available, effective July 1, 2000. The provisions of this section shall not mandate any services or payments that are not otherwise provided in the Medicaid Benefits budget in Part I, Operating Budget. The reimbursement schedule shall not be reduced under any Managed Care Agreement. The Department may require participating health care providers to meet specific training and experience requirements.

i. Medicaid Budget Analysis Reports: The Department for Medicaid Services shall submit a quarterly budget analysis report to the Interim Joint Committee on Appropriations and Revenue. The report shall provide monthly detail of actual expenditures, eligibles, and average monthly cost per eligible by eligibility category along with current trailing 12 month averages for each of these figures. The report shall also provide actual figures for all categories of noneligible-specific expenditures such as Supplemental Medical Insurance premiums, Kentucky Patient Access to Care, nonemergency transportation, drug rebates, cost settlements, and Disproportionate Share Hospital payments by type of hospital. The report shall compare the actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur.

j. Medicaid Benefits Budget Deficit: In the event Medicaid Benefits expenditures are projected to exceed available funds, the Secretary of the Cabinet for Health Services shall be empowered to recommend reimbursement rates, optional services, eligibles, or programs be reduced or maintained at levels existing at the time of the projected deficit in order to avoid a budget deficit. The projected deficit shall be confirmed by the Governor's Office of Economic Analysis. No service, eligible, or program reductions shall be implemented by the Cabinet for Health Services without written notice of such action to the Interim Joint Committee on Appropriations and Revenue and the State Budget Director. Such actions taken by the Cabinet for Health Services will be reported, upon request, at the next meeting of the Interim Joint Committee on Appropriations and Revenue. Objections to the actions by the Committee shall be responded to in writing in detail, by the Secretary for Health Services within thirty (30) days of such objections.

k. Medicaid Benefits Budget Surplus: In the event Medicaid Benefits expenditures are less than available funds, the Secretary of the Cabinet for Health Services may recommend the utilization of available funds to increase reimbursement rates, expand the Medicaid program or the number of eligibles, or transfer General Fund up to the amount of the excess Restricted Funds to other agencies within the Cabinet to be utilized for direct services to eligibles or clients. No reimbursement rate, service, eligible or program shall be increased without prior communication to the Medicaid Steering Committee and written approval of the State Budget Director and review by the Interim Joint Committee on Appropriations and Revenue. If the Interim Joint Committee on Appropriations and Revenue objects to the recommendations of the Secretary of the Cabinet for Health Services, the recommendations shall be invalid unless they are:

(a) Revised to comply with the objections of the committee; or

(b) The committee is informed in writing, in detail, within thirty (30) days of the committee's objections that a determination has been made not to comply with the objections of the committee.

l. Breast and Cervical Cancer Treatment Program: The Department for Medicaid Services shall request a plan amendment from the Centers for Medicare and Medicaid Services to extend coverage to uninsured women who are under age 65, not otherwise eligible for Medicaid, have breast or cervical cancer as diagnosed through a recognized screening program, need treatment for breast or cervical cancer and meet any other eligibility criteria established under the Federal Breast and Cervical Prevention and Treatment Act of 2000. Medical assistance for breast or cervical cancer, or precancerous conditions, shall be limited to treatment until a cure or remission is achieved. Medical assistance shall be reinstituted for any subsequent periods of recurrence or metastasis or any future conditions establishing eligibility under this Act. This program may accept gifts, grants, and bequests in support of its mission and duties specified in this Act. All money received shall be administered by the Cabinet, which shall administer these funds through appropriate trust and agency accounts. The Department of Medicaid Services shall promulgate administrative regulations to implement this program within three (3) months of federal approval of the state plan amendment.

m. Pervasive Developmental Disorders: As used in this Act, "pervasive developmental disorders" has the same meaning as in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV). The term includes five (5) diagnostic subcategories: 1) Autistic disorder; 2) Pervasive disorder not otherwise specified; 3) Asperger's disorder; 4) Rett's disorder; and, 5) Childhood disintegrative disorder. The Department for Medicaid Services shall make application, within three (3) months of the effective date of this Act, to the federal Centers for Medicare and Medicaid Services for a waiver to provide services and supports to individuals who: 1) are Medicaid eligible; 2) have an Axis I diagnosis of a pervasive developmental disorder; 3) are institutionalized or at risk for institutionalization; and 4) require a coordinated plan of medically necessary community-based behavioral health services. The waiver application shall include services that are documented to be effective in the treatment of pervasive developmental disorders and consistent with clinical best practices. The waiver application shall specify the required credentials for the providers of each service. The Cabinet for Health Services shall cap the number of children served under the waiver program to insure budget neutrality based upon the expenditures for children with Pervasive Developmental Disorders that were served under the IMPACT Plus Program during fiscal years 2001-2002. The Cabinet shall include in the waiver application those items that are necessary to ensure the waiver operates within the designated dollars including, but not limited to, a maximum number of individuals to be served and a maximum dollar amount that can be expended for an individual. The waiver shall be coordinated with and shall not supplant services provided by schools under KRS Chapter 157 or services provided under KRS Chapters 200 and 347. Nothing in this section shall affect or limit a school district's ability to obtain Medicaid reimbursement for school-related health services. The Department for Medicaid Services shall report by December 1, 2002, to the Governor, the Legislative Research Commission, and the Interim Joint Committee on Health and Welfare on the number of individuals receiving services under the waiver, the cost and type of services received, and any available nonidentifying information pertaining to individual outcomes. The waiver shall also include Social skill development and behavioral therapy services to infants and toddlers with a diagnosis of pervasive developmental disorders.

n. Supports for Community Living Waiver: Supports for Community Living Waiver funds shall be appropriated only for direct services to qualified Supports for Community Living Waiver recipients, and any unexpended funds shall not lapse but shall be carried-forward to the next fiscal year for the same purpose

29. DEPARTMENT FOR PUBLIC HEALTH

a. Notwithstanding KRS 200.151, 2000 Ky. Acts, ch. 549, Part XI, B.3.a., and any other provisions in this Act, Phase I Tobacco Settlement Funds in the amount of $1,500,000 shall lapse to the General Fund at the close of fiscal year 2001-2002.

b. Abstinence Education: The Department shall use Federal Funds and state matching funds under Title V of the Federal Social Security Act, 42 U.S.C. sec. 710, in the following manner: Ninety-five percent (95%) shall be used for community-based grants to institute abstinence education programs; five percent (5%) shall be used to administer and evaluate the effectiveness of the program; and, if funds are available after funding community-based programs, the remainder shall be used to promote abstinence education by other means, including an advertising and marketing campaign.

30. DEPARTMENT FOR MENTAL HEALTH/MENTAL RETARDATION

a. Disproportionate Share Hospital Funds: Mental health disproportionate share funds are budgeted at the maximum amounts permitted by the Balanced Budget Act of 1997, as amended by the Benefits Improvements and Protection Act of 2000, in the amount of $36,620,100 in fiscal year 2002-2003 and $37,718,700 in fiscal year 2003-2004.

b. Restricted Funds Carry Forward: Any unbudgeted Restricted Funds which carry forward in fiscal year 2002-2003 or fiscal year 2003-04 in the Department for Mental Health/Mental Retardation may be used for grants to Community Mental Health Centers.

c. Jailer Mental Health Screening Training: The Kentucky Commission on Services to Individuals with Mental Illness, Alcohol and Other Drug Related Disorders, and Dual Diagnoses shall, in its annual review of the Commission plan, shall include in its duties the development of recommendations for identifying, treating, housing and transporting prisoners in jails and juveniles in detention centers with mental illness. Items to be reviewed shall include, but not be limited to, recommendations for statutory and regulatory changes, training and treatment funding, cost sharing, housing and transportation costs, appropriate treatment sites and training requirements for local jailers and other officers of the court who may come in contact with persons incarcerated or in detention but deemed mentally ill. The Department for Mental Health/Mental Retardation, Department for Juvenile Justice and Department for Corrections shall collaborate with the Commission to recommend guidelines and practices to be implemented in regard to training local jailers and appropriate staff on identifying conditions which may require the screening of prisoners or juveniles by appropriate mental health professionals. The Commission shall submit its reports and findings to the Jail Standards Commission, Kentucky Jailers' Association, and the Legislative Research Commission, to be distributed to appropriate committees, by November 1, 2002.

d. Castlewood Prader Willis Syndrome Group Home: The contract for the operation of the Castlewood Prader Willis Syndrome Group Home shall equal at least $233,000 in each fiscal year, absent any pass-throughs to any other entities.

e. Narcotic Addiction Treatment Program: The Cabinet for Health Services shall establish, within the Division of Substance Abuse, Department for Mental Health/Mental Retardation, a narcotic addiction treatment program (NATP) to allow local individuals or local entities to establish community programs to utilize approved controlled substances, and a range of treatment procedures and services, for the rehabilitation of persons dependent on opium, morphine, heroin, or any derivative or synthetic drug in that group. The goal of a NAPT shall be to gradually lower doses to get the patient off narcotics or illegal drugs, and to allow maintenance as necessary when documented by the NAPT physician. Local advisory boards shall develop policies and procedures relating to program location, program operation, client doses, voluntary and administrative detoxification and quality assurance. The Commissioner of the Department for Mental Health/Mental Retardation shall serve as the state narcotic authority (SNA) to establish, through administrative regulation, licensure standards for NATPs. The SNA shall not grant or approve any application for a NATP until an established advisory board composed of the following persons or their representatives, from the county where the NATP is located, has considered the application: 1) the director of the local public health department; 2) the director of the community mental health center; 3) the chair of the Kentucky Agency for Substance Abuse Policy's local advisory and coordination board; 4) the director of the substance abuse treatment program for the community mental health center; 5) the chief law enforcement officer; 6) the local jailer; and 7) the local county judge/executive or mayor. The advisory board shall meet at least three (3) times per year. A majority vote approving the NATP by the membership of the advisory board shall be required before the SNA may approve or deny the application for an NATP. The Cabinet shall promulgate administrative regulations to implement this program within three (3) months of the enactment of this Act.

31. COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS

a. Kentucky Early Intervention System Analysis Reports: The Commission for Children with Special Health Care Needs shall submit a quarterly budget analysis report for the Kentucky Early Intervention Services program to the Interim Joint Committee on Appropriations and Revenue. The report shall provide the number of children enrolled, the average number of service units by category of service, and the average cost per service, by category of services, and compare actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur.

32. AGING SERVICES

a. Local Match Requirements: Notwithstanding KRS 205.460, entities contracting with the Cabinet for Health Services to provide essential services under KRS 205.455 and this provision shall provide local match equal to or greater than the amount in effect during fiscal year 2001-2002. Local match may include any combination of materials, commodities, transportation, office space, personal services, or other types of facility services or funds. The Secretary of the Cabinet for Health Services shall prescribe the procedures to certify the local match assurance.

JUSTICE

33. JUSTICE ADMINISTRATION

a. Construction Training Program: General Fund moneys appropriated to the Urban League of Lexington-Fayette County Construction Training Program in fiscal year 2002-2003 shall be used to match federal Byrne Grant funds. The Secretary of Justice shall supplement the General Fund appropriation with federal funds up to a combined total of $300,000 each fiscal year if the program meets the federal grant guidelines of grants administered by the Justice Cabinet. All moneys appropriated that cannot be utilized to match federal grants moneys shall be provided to the Urban League of Lexington Fayette County

Construction Training Program in the form of a grant to continue its activities. The Urban League of Lexington-Fayette County shall report annually on the expenditures of state and federal funds provided through this Act to the Interim Joint Committee on Appropriations and Revenue and the Office of the Secretary in the Justice Cabinet. The Urban League of Lexington-Fayette County shall be subject to any federal grant requirements that are required upon receiving federal moneys.

34. STATE POLICE

a. State/Local Emergency Phone Service Agreement: The Department of State Police may enter into agreements with the governing body of the city, county, urban-county government, or any combination thereof, to provide 911 emergency telephone service.

35. JUVENILE JUSTICE

a. Juvenile Justice Grant: Included in the General Fund appropriations in Part I, Operating Budget, Section H. Justice Cabinet, Juvenile Justice is $35,000 in fiscal year 2002-03 and $35,000 in fiscal year 2003-04 to support the Survivor's II Program in Fayette County.

36. CORRECTIONS MANAGEMENT

a. Appropriation Adjustments: The General Assembly has determined that the Department of Corrections shall be permitted to adjust appropriations between and among the following appropriation units in fiscal year 2002-2003 and in fiscal year 2003-2004; community services and local facilities and adult correctional institutions. Only adjustments necessary to manage the diverse mix of inmate classifications, custody levels, probation and parole caseloads, and population increases and/or decreases shall be permitted. Any appropriations transferred or otherwise directed between and among these appropriation units shall be documented and justified in writing. No adjustments may be made except upon the prior written justification to the Interim Joint Committee on Appropriations and Revenue and written concurrence of the State Budget Director of the Governor's Office for Policy and Management. The State Budget Director of the Governor's Office of Policy and Management shall report such adjustments and the necessity of the adjustment to the Interim Joint Committee on Appropriations and Revenue.

b. Jailer Mental Health Screening Training: The Kentucky Commission on Services to Individuals with Mental Illness, Alcohol and Other Drug Related Disorders, and Dual Diagnoses shall, in its annual review of the Commission plan, include in its duties the development of recommendations for identifying, treating, housing and transporting prisoners in jails and juveniles in detention centers with mental illness. Items to be reviewed shall include, but not be limited to, recommendations for statutory and regulatory changes, training and treatment funding, cost sharing, housing and transportation costs, appropriate treatment sites and training requirements for local jailers and other officers of the court who may come in contact with persons incarcerated or in detention but deemed mentally ill. The Department for Mental Health/Mental Retardation, Department for Juvenile Justice and Department for Corrections shall collaborate with the Commission to recommend guidelines and practices to be implemented in regard to training local jailers and appropriate staff on identifying conditions which may require the screening of prisoners or juveniles by appropriate mental health professionals. The Commission shall submit its reports and findings to the Jail Standards Commission, Kentucky Jailers' Association, and the Legislative Research Commission, to be distributed to appropriate committees, by November 1, 2002.

c. Green River Correctional Complex - Fencing: The Department of Corrections shall erect a fence around the minimum security facility at the Green River Correctional Complex.

37. COMMUNITY SERVICES AND LOCAL FACILITIES

a. Probation and Parole Credit: Notwithstanding KRS 439.344, the period of time spent on parole shall count as a part of the prisoner's remaining unexpired sentence, when it is used to determine a parolee's eligibility for a final discharge from parole as set out in KRS 439.354; or when a parolee is returned as a parole violator for a violation other than a new felony conviction.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

38. GENERAL ADMINISTRATION AND SUPPORT

a. Budget Administration: If the Secretary determines that the functions and responsibilities of the Surface Mining Reclamation and Enforcement budget unit can be performed with fewer positions than budgeted for the biennium, the positions and associated costs may be transferred to the General Administration and Support, Natural Resources, Environmental Protection, and Surface Mining Reclamation and Enforcement budget units for the purpose of employing essential positions, replacing or upgrading information technology equipment, and the replacement of vehicles. The Secretary shall present the proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to transferring any positions and funding.

b. NOx Credits: Within ten (10) days of the Natural Resources and Environmental Protection Cabinet's receipt of U.S. Environmental Protection Agency's approval of a revised State Implementation Plan complying with 40 C.F.R. 51.121 and authorizing the sale or lease of NOx allowances, the Natural Resources and Environmental Protection Cabinet shall notify the Finance and Administration Cabinet. Upon such notification, the Finance and Administration Cabinet shall have the authority to execute the sale of the NOx allowances. The proceeds from the sale shall be credited to the General Fund and deposited into the State Treasury.

39. DEPARTMENT FOR ENVIRONMENTAL PROTECTION

a. Notwithstanding KRS 224.50-868, the new tire fee shall continue to be charged and collected in fiscal biennium

2002-2004.

b. Hazardous Waste Fund: Notwithstanding KRS 224.46-580, the Department is authorized to expend up to $25,000 from the Hazardous Waste Management Fund for the purposes of conducting an audit of the sources and amounts of income and expenditures from the fund.

40. ENVIRONMENTAL QUALITY COMMISSION

a. Administrative Accountability: The Environmental Quality Commission shall be attached to the Secretary's Office, but shall remain a separate budget unit. The Secretary, with the approval of the Commissioners of the Environmental Quality Commission, shall employ a director and other necessary Commission staff who shall serve at the pleasure of the Commission and the Secretary.

PUBLIC PROTECTION AND REGULATION

41. DEPARTMENT OF INSURANCE

a. Notwithstanding 2000 Ky. Acts ch. 549 Part V, 2., 3., the Fire and Tornado Fund shall transfer $500,000 in fiscal year 2002 to the General Fund.

42. SECRETARY'S OFFICE

a. Notwithstanding KRS 224.60-142, the registration time period shall be extended to July 15, 2004, for the owner of any petroleum underground storage tank containing motor fuels who can meet requirements for participation in the financial responsibility account as authorized in KRS 224.60-130(2)(c).

43. PUBLIC ADVOCACY

a. Compensatory Leave Conversion to Sick Leave: In the event that the Department of Public Advocacy has determined that a budget shortfall may occur, the Public Advocate is authorized to institute a policy to suspend payment of fifty (50) hours of compensatory leave and convert these hours to sick leave for those Attorneys who have accumulated two hundred forty hours (240) of compensatory time.

POSTSECONDARY EDUCATION

44. COUNCIL ON POSTSECONDARY EDUCATION

a. Research Challenge Trust Fund Account: The proceeds of the endowment match program authorized in Part II, under the Council on Postsecondary Education budget unit, project L.1.d., shall be invested at the direction of the Council on Postsecondary Education until such time as the Council receives a certification from the President of the University of Kentucky or from the President of the University of Louisville stating that formal commitments have been secured by the respective universities to provide the matching requirements as determined by the Council. Upon receipt of the certification, the Council shall transfer the endowment funds from the account to the respective universities for management and investment by the university foundations if the foundations have been previously created to manage and invest private gifts and donations on behalf of the universities over time, otherwise by the university itself. The proceeds of the Research Challenge Trust Fund Account transferred to the universities shall not be managed or invested by an independent board or foundation separate from the foundations previously created to manage and invest funds on behalf of the respective universities. Only the investment earnings from the endowments created or expanded with funds from the Research Challenge Trust Fund and any required matching funds may be expended.

b. Regional University Excellence Trust Fund: The proceeds of the endowment match program authorized in Part II, under the Council on Postsecondary Education budget unit, project L.1.e., shall be deposited in the Regional University Trust Fund Account and invested at the direction of the Council on Postsecondary Education until such time as the Council receives a certification from the Presidents of Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, and Western Kentucky University stating that formal commitments have been secured by the respective universities to provide the matching requirements as determined by the Council. Upon receipt of the certification, the Council shall transfer the endowment funds from the account to the respective universities for management and investment by the university foundations if the foundations have been previously created to manage and invest private gifts and donations on behalf of the universities over time, otherwise by the university itself. The proceeds of the Regional Excellence Trust Fund transferred to the universities shall not be managed or invested by an independent board or foundation separate from the foundations previously created to manage and invest funds on behalf of the respective universities. Only the investment earnings from the endowments created or expanded with funds from the Regional University Excellence Trust Fund and any required matching funds may be expended.

c. Enrollment Growth and Retention Funding Program:

The Council on Postsecondary Education (CPE) shall, by July 1, 2003, develop guidelines for the distribution of Enrollment Growth and Retention Funding program funds that may be requested during the 2004-2006 budget request process. The CPE shall develop the guidelines in collaboration with the University Presidents to ensure a fair and equitable plan for distribution that promotes the implementation of the Postsecondary Education Act of 1997. The guidelines shall be presented to the Strategic Committee on Postsecondary Education (SCOPE) for prior review before the final adoption by CPE.

d. Strategic Investment and Incentive Trust Funds Interest Income: Notwithstanding the provisions of KRS 164.7913 to 164.7925, interest earnings in the amount of $6,581,700 shall be transferred from the Strategic Investment and Incentive Trust

Funds included under these statutes and the trust funds created by 2000 Ky. Acts ch. 549, Part I, L, 56, to Agency Revenue accounts within the Council on Postsecondary Education budget unit in the following amounts and for the following specified purposes. Included in the Restricted Funds appropriation for the Council on Postsecondary Education in Part I is $100,800 in fiscal year 2002-2003 and $105,500 in fiscal year 2003-2004 for the Minority Student Preparation Program; $187,000 in fiscal year 2002-2003 and $188,400 in fiscal year 2003-2004 for the Southern Regional Education Board Doctoral Scholars Program; $1,000,000 each year of the biennium for the Rural Innovation Program; $1,000,000 in each year of the biennium for the Knowledge-Based Economy Academic Programs; and $2,000,000 in fiscal year 2002-2003 for the Experimental Program to Stimulate Competitive Research (EPSCoR) Program.

e. Kentucky Science and Technology Funding Program: Included in the appropriations to the Science and Technology Funding Program in Part I is $4,521,600 in each year of the biennium for the Experimental Program to Stimulate Competitive Research (EPSCoR) Program and the Science and Engineering Foundation; $3,000,000 in each year of the biennium for the Kentucky Research and Development Voucher Program; $750,000 in each year of the biennium for the Kentucky Commercialization Fund; $500,000 in each year of the biennium for the Regional Technology Corporations and Satellite Innovation and Commercialization Centers; and $1,000,000 in each year of the biennium for the Rural Innovation Program, notwithstanding the provisions of KRS 164.6027 and 164.6029.

f. Lung Cancer Research Fund Interest Transfer: Notwithstanding the provisions of KRS 164.476, interest earnings up to $300,000 from the Lung Cancer Research Fund may be transferred to the Agency Revenue accounts of the Council on Postsecondary Education to support the Knowledge-Based Economy Academic Program included in the Restricted Funds appropriation for the Council on Postsecondary Education in Part I.

g. Science and Technology Trust Fund: Notwithstanding the provisions of KRS 164.6019, 164.6027, 164.6035, and 164.6043, the unobligated balance of fiscal year 2001-2002 appropriations from the Council on Postsecondary Education, Science and Technology Trust Fund, at the end of fiscal year 2001-2002 shall be transferred to the Office of the Commissioner for the New Economy within the Cabinet for Economic Development. The unobligated balance shall be certified by the Council on Postsecondary Education and submitted to the State Budget Director for final approval prior to the transfer.

h. Interest Earnings Transfer from the Strategic Investment and Incentive Trust Fund accounts: Notwithstanding the provisions of KRS 164.7913 to 164.7925, the Council on Postsecondary Education may transfer interest earnings from the Strategic Investment and Incentive Trust Fund accounts to the Agency Revenue accounts of the Council, and expend them upon application to and approval from the State Budget Director, and reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.630.

i. Kentucky Science and Technology Corporation: Notwithstanding the provisions of KRS 164.6017, the Kentucky Science and Technology Corporation shall submit an annual plan detailing the annual allocation of funds from the Science and Technology Funding Program, excluding funds for the Knowledge-Based Economy Academic Programs, for review and approval by the Council on Postsecondary Education and the Office of the New Economy within the Cabinet for Economic Development, prior to the Council on Postsecondary Education executing a contract with the Corporation to administer Science and Technology Funding programs.

j. Student Financial Aid and Advancement Trust Fund: The Council on Postsecondary Education shall transfer $750,000 in interest income from the Student Financial Aid and Advancement Trust Fund to the Kentucky Higher Education Assistance Authority in fiscal year 2002-2003 to assist in the financing of the Kentucky Educational Excellence Scholarship (KEES) program.

k. Concept Phase Funding Pool: Notwithstanding the provisions of KRS 164.6021, the funds appropriated in Part I to the Council on Postsecondary Education for the Research and Development Voucher Program may be used to fund the Concept Phase Funding Pool.

l. Regional Postsecondary Education Centers: The Council on Postsecondary Education shall resolve any disputes between or among institutions in the design, planning, or use of each Regional Postsecondary Education Center previously authorized by the General Assembly.

m. Postsecondary Education Employment Status: Notwithstanding KRS 164.225, 164.360, and 164.830, the appointment of a relative to the governing board of a public postsecondary education institution, as defined under KRS 164.001, shall not affect the employment status of any related person employed at least thirty-six (36) months prior to the appointment of the relative.

n. Efficient Facilities: The General Assembly directs, that the Hunt Morgan Addition and Pharmacy Building Addition endorsed for construction by the Council on Postsecondary Education in its 2002-2004 fiscal biennial budget recommendation to the General Assembly, being both designed for wet lab research and having similar requirements for support facilities that can be shared to maximize research space and operational efficiency, shall be constructed as one building.

45. KENTUCKY STATE UNIVERSITY

a. Non-Federal Matching Requirement: Included in the Restricted Funds appropriation to Kentucky State University in Part I is $487,800 in fiscal year 2002-2003 and $502,400 in fiscal year 2003-2004 to enable Kentucky State University to fully fund the non-federal matching requirement under the provisions of the Federal Agriculture Research, Extension, and Education Reform Act of 1998. Notwithstanding the provisions of KRS 164.7911 to 164.7925, interest income in the amount of $487,800 in fiscal year 2002-2003 and $502,400 in fiscal year 2003-2004 will be transferred to Kentucky State University by the Council on

Postsecondary Education.

46. MOREHEAD STATE UNIVERSITY

a. Space Allocation: Morehead State University shall provide at least five thousand (5,000) square feet of classroom, open laboratory, teaching laboratory and other space necessary for the Kentucky Community and Technical College System, the Office of the New Economy, the University of Kentucky and other public entities to provide programs and other activities to assist in meeting the academic and workforce training needs of the region within the West Liberty Extended Campus Building authorized by 1998 Kentucky Acts, Chapter 615, Part II (HB 321).

47. UNIVERSITY OF KENTUCKY

a. Interest Income: Notwithstanding the provisions of KRS 164.7911 through 164.7925, interest income in the amount of $234,800 shall be transferred to the University of Kentucky from the Council on Postsecondary Education in fiscal year 2002-2003.

b. University of Kentucky Center for Rural Health: This facility shall be financed by the issuance of tax exempt bonds by the State Property and Buildings Commission. Lease rental payments from the University of Kentucky to the Appalachian Regional Hospital Corporation in the amount of $383,000 per year and lease rental payments by Hazard Community College to the Appalachian Regional Hospital Corporation in the amount of $145,000 per year provide the fund source of lease rental payment to the State Property and Buildings Commission for the purpose of providing debt service for bonds to fund the facility. It is recognized that the lease rental payments by the University of Kentucky and by Hazard Community College to Appalachian Regional Hospital Corporation are necessary to provide the space needs of the University of Kentucky and Hazard Community College until the completion of the new building facility. Therefore, these lease rental payments are not available for lease rental payments to the State Property and Buildings Commission for the issuance of the tax exempt bonds to be used to finance the project until the completion of the new building. The Office for Financial Management within the Finance and Administration Cabinet shall work with the Council on Postsecondary Education to provide an interim financing program to allow for the construction of the new facility, without diversion of the lease rental payments by the University of Kentucky and the Hazard Community College, to the Appalachian Regional Hospital Corporation, and to the State Property and Buildings Commission until such time as the new facility is completed.

c. Ovarian Cancer Screening Outreach Program: Notwithstanding KRS 164.7911 through 164.7927, General Fund (Tobacco) dollars in the amount of $700,000 each fiscal year shall be transferred from the Research Challenge Trust Fund's Lung Cancer Research Program and allotted to the Ovarian Cancer Screening Out Reach Program at the University of Kentucky. The Ovarian Cancer Screening Outreach Program may accept gifts, grants, and bequests in support of its mission and duties. All funds received shall be administered by the University of Kentucky through appropriate trust and agency accounts.

d. Lexington Community College: The University of Kentucky shall place the highest priority on improving the salaries of the Lexington Community College faculty and nonexecutive and nonmanagement staff.

e. Collaborative Center for Literacy Development: Included in the General Fund appropriation for the University of Kentucky in Part I is $588,000 in fiscal year 2002-2003 and $600,000 in fiscal year 2003-2004 for the Collaborative Center for Literacy Development for the Reading Recovery Teacher Leader Training program for public postsecondary education institutions, the eight Regional Service Centers established by KRS 156.017, and local school districts.

48. UNIVERSITY OF LOUISVILLE

a. Quality and Charity Care Trust Agreement: Notwithstanding the provisions of KRS 164.7911 through 164.7925, interest income in the amount of $50,000 shall be transferred to the University of Louisville from the Council on Postsecondary Education in fiscal year 2002-2003 for the Quality and Charity Care Trust Agreement.

49. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE

a. Postsecondary Workforce Training Program: Included in the General Fund appropriation to the Kentucky Community and Technical College System in Part I is $6,000,000 each year of the biennium for the Postsecondary Workforce Training Program. These funds shall be used for worker training programs on a nonrecurring basis and shall not be used to establish permanent Kentucky Community and Technical College program offerings. Up to $2,100,000 of the Postsecondary Workforce Training Program each year of the biennium may be transferred to the Bluegrass State Skills Corporation within the Cabinet for Economic Development upon a determination by the State Budget Director that other sources of funds are insufficient to meet the employment retention and training needs of the Commonwealth as certified by the Secretary of the Economic Development Cabinet.

b. Kentucky Community and Technical College System Faculty and Staff Salaries: The number-one budget request priority of the Kentucky Community and Technical College System is to correct the historically low salaries of the faculty and staff. The average 2000-01 salary of a community college faculty member is approximately $2,700 less than the midpoint between the average 2000-01 salary of a Kentucky K-12 teacher and the average salary of a faculty member in Kentucky's other state-supported higher education institutions. The Kentucky Community and Technical College System shall place the highest priority on improving the salaries of the Kentucky Community and Technical College System faculty and nonexecutive and nonmanagement staff.

TRANSPORTATION CABINET

50. CABINET WIDE

a. Biennial Highway Construction Programs: The Secretary of Transportation is directed to produce a single document that contains two separately identified sections, as follows:

Section 1 shall detail the enacted fiscal biennium 2002-2004 Biennial Highway Construction Program and Section 2 shall detail the Highway Preconstruction Program Plan for fiscal year 2004-2005 through fiscal year 2007-2008 as identified by the 2002 General Assembly. This document shall mirror in data type and format the fiscal year 2002-2008 Recommended Six Year Highway Plan as submitted to the 2002 General Assembly. The document shall be published and distributed to members of the General Assembly and the public within sixty (60) days of adjournment of the 2002 General Assembly.

No executive authority shall expend, or otherwise commit in any manner, available fiscal biennium 2002-2004 Road Fund resources for a project designated as a State Project in the fiscal year 2004-2005 through fiscal year 2007-2008 Highway Preconstruction Program Plan. In the event that federally funded projects contained in the enacted fiscal biennium 2002-2004 Biennial Highway Construction Program are delayed due to unforeseen circumstances, or if additional federal funds are received in excess of the amounts contemplated in this Act, the Transportation Cabinet may advance projects from the Highway Preconstruction Plan only to the extent required to assure that the Commonwealth makes full use of all available federal funds.

The Secretary of Transportation is further directed to report monthly to the Legislative Research Commission of all activity, as prescribed by KRS 176.430, relating to all projects with open activity conducted by the Transportation Cabinet during the biennium including the year each project phase was enacted in a Six Year Highway Plan. Pursuant to KRS 48.800(5), the Transportation Cabinet shall submit the electronic monthly report in a format prescribed by the Legislative Research Commission.

Notwithstanding KRS 176.440(2) any project additions or modifications that the 2002 General Assembly may make to the fiscal year 2002-2008 Recommended Six Year Road Plan shall carry the same force of law as projects that were included in the fiscal year 2002-2008 Recommended Six Year Road Plan as submitted by the Executive Branch.

51. AIR TRANSPORTATION

a. Bluegrass Field Airport: No appropriations to the Air Transportation Budget shall be utilized for the purpose of studying, planning, or construction of an additional runway at Bluegrass Field Airport.

b. Certified Air Carriers and Cap on Sales and Use Tax: The sales and use tax credit shall be an amount equal to the Kentucky sales and use tax otherwise applicable to aircraft fuel, including jet fuel, purchased by the certificated air carrier for its storage, use, or other consumption during the annual period, less $1,000,000. The $1,000,000 amount shall be increased to reflect the Kentucky sales and use tax on aviation fuel attributable to operations of any other company purchased, merged, acquired, or otherwise combined with the certificated air carrier after the base period. The amount of the increase shall be based on the Kentucky sales and use tax applicable to such aircraft fuel purchased during the twelve (12) month period immediately preceding the purchase, merger, or other acquisition by or combination with the certificated air carrier.

52. PUBLIC TRANSPORTATION

a. Federal Transit Administration Match: Included in the fiscal year 2002-2003 Restricted Fund appropriation is $1,650,000 to match Federal Transit Administration discretionary capital grants to purchase buses and vans for public transit entities. To the extent that these Restricted Funds are not necessary to match additional federal funds for the Federal Transit Administration discretionary capital grants for buses and vans, the Restricted Funds shall revert to the Capital Construction and Equipment Purchase Contingency Account at the close of fiscal year 2003-2004.

b. Human Services Transportation Delivery Program: Consistent with other provisions of this Act, the Human Services Transportation Delivery Program shall continue to be operated under KRS 281.870 to KRS 281.879.

c. Motorcycle Safety Education Program: Notwithstanding the provisions of KRS 186.890 (1) and (2) all revenues from the collection of fees relating to the Motorcycle Safety Education Program Fund shall be utilized to provide motorcycle safety programs. No administrative costs shall be deducted from the Motorcycle Safety Education Fund. The Transportation Cabinet shall report biannually to the Interim Joint Committee on Appropriations and Revenue of the revenues deposited to the Fund, the expenditures incurred, and available balance. In addition, the Cabinet shall identify the safety program provided, the cost of the programs, location, and number of attendees.

53. HIGHWAYS

a. State Match Provisions: The Transportation Cabinet is authorized to utilize state construction moneys to match federal highway moneys in the event that unanticipated additional federal funds are provided to Kentucky and the state match appropriations have been exhausted.

b. Excess Debt Service/Lease-Rental Appropriations: Any Road Fund appropriations that are not needed to pay lease-rental payments to the Kentucky Turnpike Authority or debt service on the new Transportation Cabinet Office Building shall be credited to the State Construction Account.

c. Federal Aid Highway Funds: If additional federal highway moneys are made available to Kentucky by the United States Congress, the funds shall be used according to the following priority: (a) any demonstration-specific or project-specific money shall be used on the project identified; and (b) all other funds shall be used to insure that projects in the 2002-2004 Biennial Highway Construction Plan are funded. If additional federal moneys remain after these priorities are met, the Transportation Cabinet may select projects from the four (4) year pre-construction program.

d. Demonstration Projects: The Transportation Cabinet is authorized to select up to five (5) design/build demonstration road related projects. For procurement purposes, the Transportation Cabinet shall utilize a qualifications-based bidding process within the context of the provisions of KRS Chapter 176, notwithstanding any conflicting provisions of KRS Chapters 45A, 176, and 177. The Secretary of Transportation shall determine the nature and scope of each design/build project.

e. Pre-financing Road Projects: The Secretary is directed to develop and implement a program to address the policy of the General Assembly to expeditiously initiate and complete projects in the 2002-2004 Biennial Highway Construction Plan. Notwithstanding the provisions of KRS Chapter 45, specifically including provisions of KRS 45.242 and 45.244, the Secretary may concurrently advance projects in the Biennial Highway Construction Plan by employing management techniques that maximize the Cabinet's ability to contract for and effectively administer the project work. The Secretary is directed to continuously ensure that the unspent project and Road Fund balances available to the Transportation Cabinet are sufficient to meet expenditures consistent with appropriations provided. The Transportation Cabinet shall maintain a minimum Road Fund cash management target of $100 million. The Secretary may seek approval to spend Road Fund cash below $100 million by submitting a recommended spending plan to the Secretary of Finance and Administration Cabinet for his or her approval. A copy of the approved spending plan shall be transmitted to the Interim Joint Committee on Appropriations and Revenue.

f. Miscellaneous Road Fund Expenditures: A turning lane shall be constructed at KY 1958 and the New Retirement Center in Clark County. The cost related to the construction of the turning lane shall be funded from Road Fund resources.

A stop light and turning lane shall be installed at 31W at Dart Container World in Hart County. The cost related to the installation of the stop light and turning lane shall be funded from Road Fund resources.

Bloomington Road shall be resurfaced from MP 0.0 to MP 2.0 in Grayson County. The cost related to the resurfacing of the Road shall be funded from Road Fund Resources.

The Transportation Cabinet shall build and surface 2.45 miles of the Brammer Hill-Delta Road (County Road 1030) in Wayne County. The cost related to building and surfacing the road shall be funded from Road Fund Resources.

The Transportation Cabinet shall repave 1.6 miles of the Paint Creek Road beginning at the juncture of KY 92 W and the Tacket Creek Road shall be repaved from the juncture of Sevoy Clear Creek Road South in Whitley County. The cost related to the repaving shall be funded from Road Fund Resources.

Luminaries shall be installed at South Williamson to KY 308 in Pike County. The cost related to the installation of the luminaries shall be funded from Road Fund resources.

Traffic lights shall be installed at the following locations: at the intersection of 55th Street and US 23 in Boyd County; on US 60 at the Olive Hill Elementary School Entrance East of Olive Hill in Carter County; South Dixie Fire Department on 31W at Valley Station in Jefferson County; at the intersection of KY 490 and US 25 in Laurel County; at the intersection of KY 68 and Warehouse Drive in the City of Lebanan in Marion County; at the intersection of AA Highway and KY 57 in Mason County; at the intersection of US 42 and Ridgemoor Drive in Oldham County; and at the intersection of US 421 and US 62 in Woodford County. The cost related to the installation of the traffic lights shall be funded from Road Fund resources.

Two flashing school zone lights shall be installed for Fairview High School. The cost related to the installation shall be funded from Road Fund resources. The cost to operate the lights shall be the responsibility of the Boyd County Fiscal Court.

Bridges shall be reconstructed at the following locations: Roaring Paunch Creek Bridge, off KY 1470 in Kingtown Road in McCreary County; Old Sano Road Bridge 2 miles North of KY 80 in Russell County; Dry Hollow Road Bridge (County Road 1213) in Wayne County; Verne Road Bridge near the junction of Verne Road with KY 1064 in Whitley County; and Keswick Road Bridge in Whitley County. The cost related to the reconstruction of the Bridges shall be funded from Road Fund Resources.

Guardrails shall be installed at the following locations: Green Briar Road beginning 2 miles east and ending 8 miles east of KY 615 in Adair County; Milltown Road (KY 768) 1.2 miles North of KY 61 in Adair County; Elmore Hill Road 0.1 miles south of KY 70 in Casey County; Thomas Ridge Spur 0.1 miles East of KY 910 in Casey County; Patsy Riffe Ridge 0.2 miles east of KY 127 in Casey County; KY 32 from the Rowan/Elliott County Line to the Junction of KY 32 and KY 7; KY 1620 between MP 2 and MP 4 in Elliott County; KY 1426 between MP 8.263 and MP 8.819 in Floyd County; KY 1231 between MP 2.6 and MP 4.6 in Knott County; KY 1697 between MP 1.7 and MP 3.7 in Knott County; KY 550 between MP 16.8 and MP 18.0 in Knott County; KY 582 between MP 7.9 and MP 10.3 in Knott County; Dishman Springs Road in Barbourville from Helton Branch Road to Emanuel Road in Knox County; Parrot Hollow Road from MP 2.386 to MP 3.225 in Knox County; Artemus/Flat Lick Road from MP 1.1 to MP 1.336 in Knox County; KY 3419 between MP 9.509 and MP 12.014 in Pike County; on the left side of KY 1003 one mile east of KY 80 in Pulaski County; and on the left side of KY 1003 four miles east of KY 80 across Buck Creek Bridge in Pulaski County. The cost related to the installation of the guardrails shall be funded from the maintenance account.

Directional signs to the Aviation Museum of Kentucky shall be installed on US 60 near the intersection of Man-of-War and US 60 in Fayette County. The cost related to the installation of the signs shall be funded from Road Fund resources.

The Transportation Cabinet shall resurface KY 181 from MP 5.8 to MP 10.5 in Muhlenburg County. The costs related to the resurfacing of KY 181 shall be funded from the maintenance account.

The Transportation Cabinet shall resurface KY 1002 from MP 0.638 to MP 1.1 in Wolfe County. The costs related to the resurfacing of KY 1002 shall be funded from the maintenance account.

Spot improvements shall be made at the intersection of KY 550 and KY 1103 in Knott County to increase site distance. The cost related to the spot improvements shall be funded from Road Fund resources.

Sight distance improvements shall be made from the intersection of KY 645 and KY 581 in Lawrence County extending 2,000 feet South along KY 581 towards Paintsville. The cost related to the sight distance improvement shall be funded from Road

Fund resources.

The Transportation Cabinet shall amend the FB 2002-04 Biennial Highway Construction Plan to direct that the project description for Project Number 6-8100 in Bracken County be revised to read as follows: Planning Study for reconstruction of KY-10 from Brooksville to Germantown.

g. Toll Road Facilities: If Federal Funds become available to the state to support toll roads then all toll road facilities within the Commonwealth shall close and all toll road employees will be reassigned within the Transportation Cabinet.

h. Location of proposed I-66: The location of proposed I-66 in the South Central Kentucky Area shall be limited to alternative Highway corridors extending from Cumberland Parkway to the Natcher Parkway North of the City of Bowling Green.

i. Demonstration project: The Transportation Cabinet shall request a waiver from the Federal Highway Administration to establish a demonstration project that uses pigmented binder materials in the construction of school crosswalks in Hardin County.

54. GENERAL ADMINISTRATION AND SUPPORT

a. Adopt-A-Highway Litter Program: The Transportation and Natural Resources and Environmental Protection Cabinets may receive and accept grants, contributions of money, property, labor, or other things of value from any governmental agency, individual, nonprofit organization, or private business to be used for the Adopt-a-Highway Litter Program or other statewide litter programs. Any contribution of this nature shall be deemed to be a contribution to a state agency for a public purpose and shall be treated as restricted funds under KRS Chapter 45 and reported according to KRS Chapter 48, and shall not be subject to restrictions set forth under KRS Chapter 11A.

b. Transportation Cabinet Office Building: The new Transportation Cabinet Office Building shall be owned by the Transportation Cabinet and any revenue generated from the leasing of office space in the new Transportation Cabinet Office Building shall be deposited in the Road Fund.

WORKFORCE DEVELOPMENT CABINET

55. DEPARTMENT FOR TECHNICAL EDUCATION

a. Participation in the Education Technology Program by Area Vocational Education Centers: Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650 to 157.665, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Kentucky Department of Education, shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds. The School Facilities Construction Commission shall include Area Vocational Education Centers in any offers of assistance to local school districts for technology assistance during the 2002-2004 fiscal biennium.

56. DEPARTMENT FOR VOCATIONAL REHABILITATION

a. Personnel Cap: A personnel cap of 504 positions (484 full time, 19 part time, and 1 interim) is authorized.

57. DEPARTMENT FOR EMPLOYMENT SERVICES

a. Facility Replacement and Renovation Program: The General Assembly authorizes the Department to develop and implement a facility replacement and renovation program to improve the quality of Workforce Development Cabinet facilities used by the Department and its clients, and to reduce departmental reliance on lease/rental properties. The Department is directed to coordinate this program with the Secretary of the Finance and Administration Cabinet and the sale, transfer, or other disposition of existing facilities may be expended toward the purchase, construction, renovation, and equipping and furnishing of replacement facilities. Expenditures authorized by this provision are limited to the use of funds solely derived from the sale of Cabinet-owned facilities, which equity rights are shared between both the state and the federal government. Any project estimated to cost over $400,000 shall be reported to the Capital Projects and Bond Oversight Committee by the Secretary of the Finance and Administration Cabinet.

PART X

GENERAL FUND SURPLUS EXPENDITURE PLAN

1. Pursuant to KRS 48.700 and notwithstanding KRS 48.140, there is established a plan for the expenditure of General Fund surplus moneys pursuant to a General Fund Surplus Plan contained in this Part for fiscal years 2002-2003 and 2003-2004. Pursuant to the enactment of the Surplus Expenditure Plan, General Fund moneys in the General Fund undesignated fund balance in excess of the amount specified in Part III, 25., are appropriated to the Budget Reserve Trust Fund established in KRS 48.705.

2. The Secretary of the Finance and Administration Cabinet shall determine, within thirty (30) days after the close of fiscal year 2001-2002, and the close of fiscal year 2002-2003, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for the Budget Reserve Trust Fund pursuant to the Plan in fiscal year 2002-2003 and fiscal year 2003-2004.

The Secretary of the Finance and Administration Cabinet shall certify the amount of actual General Fund undesignated fund balance available for expenditure to the Legislative Research Commission.

Subsequent to June 30, 2002, funds that are certified as being available in the actual General Fund undesignated fund balance for the General Fund Surplus Account are appropriated for the Budget Reserve Trust Fund in fiscal year 2002-2003 pursuant to the Plan.

PART XI

PHASE I TOBACCO SETTLEMENT

This section of the Act prescribes the policy implementing aspects of the national settlement agreement between the tobacco industry and the collective states as described in KRS 248.701 to KRS 248.727. In furtherance of that agreement, the General Assembly recognizes that the Commonwealth of Kentucky is a party to the Phase I Master Settlement Agreement (MSA) between the Participating Tobacco Manufacturers and forty-six (46) Settling States which provides reimbursement to states for smoking-related expenditures made over time.

1. The Commonwealth's share of the MSA is equal to 1.7611586% of the total settlement amount. Payments under the MSA are to be made to the states in January and April of each year.

2. The total settlement amount to be distributed each payment date is subject to change pursuant to several variables provided in the MSA, including inflation adjustments, volume adjustments, previously settled states adjustments, and the non-participating manufacturers adjustment.

3. The General Assembly has determined that it shall be the policy of the Commonwealth that all Phase I Tobacco Settlement payments shall be deposited to the credit of the General Fund and shall maintain a distinct identity as Phase I Tobacco Settlement payments that shall not lapse to the credit of the General Fund surplus, but shall continue forward from each fiscal year to the next fiscal year to the extent that any balance is unexpended.

4. Based on the current estimates as reviewed by the Consensus Revenue Forecasting Group, the amount of MSA payments expected to be received in fiscal year 2002-2003 is $125,600,000 and in fiscal year 2003-2004 is $109,100,000. It is recognized that payments to be received by the Commonwealth are estimated and are subject to change. Any appropriations made from the estimated receipts are subject to adjustments based on actual receipts as received and certified by the Secretary of the Finance and Administration Cabinet.

a. Early Childhood Development Initiatives: Twenty-five percent (25%) of the MSA payments received in fiscal year 2002-2003, estimated to be $31,400,000, and in fiscal year 2003-2004, estimated to be $27,275,000, is appropriated for Early Childhood Development Initiatives as specified below.

b. Health Care Initiatives: Twenty-five percent (25%) of the MSA payments received in fiscal year 2002-2003, estimated to be $31,400,000, and in fiscal year 2003-2004, estimated to be $27,275,000, is appropriated to the Kentucky Health Care Improvement Fund for health care initiatives as specified below.

c. Agricultural Development Initiatives: Fifty percent (50%) of the MSA payments received in fiscal year 2002-2003, estimated to be $62,800,000, and in fiscal year 2003-2004, estimated to be $54,550,000, is appropriated to the Kentucky Agricultural Development Fund to be used for agricultural development initiatives.

A. AGRICULTURAL DEVELOPMENT APPROPRIATIONS

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

1. GOVERNMENT OPERATIONS

		2002-03	2003-04
Budget Unit	Governor's Office of Agricultural Policy	47,688,000	39,434,000

From the allocation provided in KRS 248.703(2)(b)2., included in the above appropriation is up to $1,600,000 in fiscal year 2002-2003 and $1,600,000 in fiscal year 2003-2004 for the University of Kentucky Extension Service to support the cost of providing a five percent (5%) bonus to be made in addition to any salary adjustments that may be provided in accordance with Part IV, State Salary/Compensation and Employment Policy of this Act, but shall not be added to the employee's base salary.

Counties that are allocated in excess of $20,000 annually, as provided by KRS 248.703(2)(b)1. may provide up to four percent (4%) of the individual county allocation, not to exceed $15,000 annually, to the county council in that county for administrative costs.

From the allocation provided in KRS 248.703(2)(b)2., included in the above appropriation is $800,000 in fiscal year 2002-2003 and $800,000 in fiscal year 2003-2004 to be transferred to the Soil and Water Conservation Cost-Share Program in the Cabinet for Natural Resources and Environmental Protection.

2. FINANCE AND ADMINISTRATION CABINET

		2002-03	2003-04
Budget Unit	Debt Service	6,112,000	6,116,000

To the extent that revenues sufficient to support the required debt service appropriations are received from the Tobacco Settlement Program, those revenues shall be transferred from those accounts to the appropriate account of the General Fund to fully fund the aggregate debt service obligation of the General Fund. All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there is a sufficient amount available to be transferred from tobacco supported funding program accounts to other accounts of the General Fund.

3. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

		2002-03	2003-04
Budget Unit	Natural Resources	9,000,000	9,000,000

These funds are appropriated for the Environmental Stewardship Program within the Department for Natural Resources.

TOTAL AGRICULTURAL APPROPRIATIONS 62,800,000 54,550,000

B. EARLY CHILDHOOD DEVELOPMENT

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

1. GOVERNMENT OPERATIONS

		2002-03	2003-04
Budget Unit	Governor's Office of Early Childhood Development	2,188,400	2,188,400

2. CABINET FOR FAMILIES AND CHILDREN

		2002-03	2003-04
Budget Unit	Community Based Services	7,262,800	3,581,300

Included in the above appropriation is $7,023,300 in fiscal year 2002-2003 and $3,023,300 in fiscal year 2003-2004 for the Early Childhood Development Program, and $239,500 in fiscal year 2002-2003 and $558,000 in fiscal year 2003-2004 for Child Advocacy Centers. Notwithstanding KRS 45.229, Phase I Tobacco Settlement funds totaling $4,000,000 in fiscal year 2001-2002 shall not be expended but shall carry forward into fiscal year 2002-2003 and not be expended, but shall carry forward into fiscal year 2003-2004 to sustain operations of fully implemented child care programs. These represent funds from fiscal year 2000-2001 which were reserved by the Early Childhood Authority in anticipation of the reduced Phase I Tobacco Settlement payments in fiscal year 2003-2004.

3. CABINET FOR HEALTH SERVICES

		2002-03	2003-04
Budget Unit	Public Health	18,598,800	18,155,300

Included in the above appropriation is $11,948,800 in each fiscal year for the HANDS Program; $2,200,000 in fiscal year 2002-2003 and $2,300,000 in fiscal year 2003-2004 for Healthy Start initiatives; $2,000,000 each fiscal year for Universal Children's Immunizations; $1,200,000 in fiscal year 2002-2003 and $1,106,500 in fiscal year 2003-2004 for the Folic Acid Program; $250,000 in fiscal year 2003-2004 for Early Childhood Oral Health, and transfers to the General Fund amounts totaling $1,250,000 in fiscal year 2002-2003 and $550,000 in fiscal year 2003-2004. Additionally, $93,500 in Phase I Tobacco Settlement funds is budgeted to continue from fiscal 2001-2002 into fiscal year 2003-2004 to sustain operations of the fully implemented Folic Acid program. This amount represents funds from fiscal year 2000-2001 which were reserved by the Early Childhood Authority in anticipation of the reduced Phase I Tobacco Settlement payments in fiscal year 2003-2004. Phase I Tobacco Settlement Funds budgeted to continue from fiscal year 2001-2002 in the amount of $450,000 shall be transferred to the General Fund in fiscal year 2002-2003.

In addition, funds in the amount of $1,000,000 in each fiscal year transferred from the Kentucky Agency for Substance Abuse Policy to the Department for Public Health shall be used for Early Childhood Mental Health.

		2002-03	2003-04
Budget Unit	Mental Health and Mental Retardation1,000,000	1,000,000	
Budget Unit	Children with Special Health Care Needs	1,600,000	1,600,000

Included in the above appropriation is $550,000 in each fiscal year for Universal Newborn Hearing Screening; $50,000 in each fiscal year for Vision Screening; and $1,000,000 each fiscal year for the Kentucky Early Intervention Services First Steps Program.

4. POSTSECONDARY EDUCATION

		2002-03	2003-04
Budget Unit	Kentucky Higher Education Assistance Authority	750,000	750,000

Included in the above appropriation is $750,000 each fiscal year for Early Childhood Scholarships.

TOTAL EARLY CHILDHOOD APPROPRIATIONS 31,400,000 27,275,000

C. HEALTH CARE IMPROVEMENT APPROPRIATIONS

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

Notwithstanding the provisions of KRS 304.17B-003(5) appropriations for health care improvement shall be as follows:

1. GOVERNMENT OPERATIONS

		2002-03	2003-04
Budget Unit	Kentucky Agency for Substance Abuse Policy	2,574,800	2,236,600

Included in the above appropriation is $844,100 in fiscal year 2002-2003 and $489,300 in fiscal year 2003-2004 which shall be transferred to the Endowment fund, notwithstanding the provisions of KRS 12.330. This Endowment fund shall be created as a Restricted Funds account in the state accounting system. Contained in the above appropriation is $225,000 each fiscal year to be transferred to the Department for Public Health for operating costs associated with the upgrade of the Kentucky All Schedule Prescription Electronic Reporting (KASPER) system. Included in the above appropriation is $1,000,000 in fiscal year 2002-2003 and $1,000,000 in fiscal year 2003-2004 to be transferred to the Department for Public Health to provide for Early Childhood Mental Health. Included in the above appropriation is $500,000 in fiscal year 2002-2003 and $500,000 in fiscal year 2003-2004 which shall be transferred to the credit of the General Fund.

2. CABINET FOR HEALTH SERVICES

		2002-03	2003-04
Budget Unit	Public Health	3,140,000	2,727,500

These funds are appropriated for the Smoking Cessation Program within the Department for Public Health.

3. POSTSECONDARY EDUCATION

			2002-03	2003-04
Budget Unit	Council on Postsecondary Education	6,280,000	5,455,000	

These funds are appropriated for the Lung Cancer Research Program within the Council on Postsecondary Education.

4. PUBLIC PROTECTION AND REGULATION CABINET

		2002-03	2003-04
Budget Unit	Department of Insurance General Operations	19,405,200	16,855,900

These funds are appropriated for the Kentucky Access Program.

	2002-03	2003-04
TOTAL HEALTH CARE APPROPRIATIONS	31,400,000	27,275,000

	2002-03	2003-04
TOTAL PHASE I TOBACCO SETTLEMENT FUNDING PROGRAM	125,600,000	109,100,000

PART XII

STATE/EXECUTIVE BRANCH BUDGET SUMMARY

OPERATING BUDGET

	2001-2002	2002-2003	2003-2004
General Fund - Tobacco		125,600,000	109,100,000
General Fund 330,000	6,882,051,200	7,127,113,700	
Restricted Funds	9,298,700	3,538,364,100	3,628,744,200
Federal Funds 17,983,500	5,360,273,100	5,380,455,000	
Road Fund	49,626,000	1,091,699,300	1,122,934,300
Subtotal	77,238,200	16,997,987,700	17,368,347,200

CAPITAL PROJECTS BUDGET

	2001-2002	2002-2003	2003-2004
General Fund - Tobacco	-0-	-0-	-0-
General Fund -0-	100,000	400,000	
Restricted Funds	32,747,000	661,487,300	229,377,000
Federal Funds 1,392,000	79,719,000	8,866,000	
Bond Funds	307,050,000	6,892,000	
Road Fund		5,840,000	8,284,000
Agency Bonds	66,800,000	1,500,000	
Capital Construction Surplus		4,549,000	319,000
Investment Income		26,654,000	16,540,000

Deferred Maintenance		1,957,000	
Other Funds	105,918,000	2,700,000	
Emergency Repair, Replacement and Maintenance	3,100,000	1,000,000	
Capital Construction Contingency		11,351,000	
Subtotal	37,239,000	1,272,425,300	274,878,000

TOTAL-STATE/EXECUTIVE BUDGET

	2001-2002	2002-2003	2003-2004
General Fund - Tobacco	-0-	125,600,000	109,100,000
General Fund 330,000	6,882,151,200	7,127,513,700	
Restricted Funds	42,045,700	4,199,851,400	3,858,121,200
Federal Funds 19,375,500	5,439,992,100	5,389,321,000	
Road Fund	49,626,000	1,097,539,300	1,131,218,300
Bond Funds	307,050,000	6,892,000	
Agency Bonds	66,800,000	1,500,000	
Capital Construction Surplus		4,549,000	319,000
Investment Income		26,654,000	16,540,000
Deferred Maintenance		1,957,000	
Other Funds	105,918,000	2,700,000	
Emergency Repair, Replacement and Maintenance	3,100,000	1,000,000	
Capital Construction Contingency		11,351,000	
TOTAL FUNDS	114,477,200	18,270,413,000	17,643,225,200

The above capital projects are directly funded in Part II, Capital Projects Budget, of this Act.

The Senate Committee Amendment No. 1 to **HB 507** is as follows:

HB 507, On page 41, line 10, by deleting the amount "168,255,000", and inserting the amount "168,530,000", and by deleting the amount "171,611,900", and inserting the amount "171,886,900"; and

On page 41, line 13, by deleting the amount "401,241,000", and inserting the amount "401,516,000", and by deleting the amount "420,383,000", and inserting the amount "420,658,000"; and

On page 41, after line 13 but before line 14, by inserting the following:

"Included in the above General Fund appropriation is $275,000 in fiscal year 2002-2003 and $275,000 in fiscal year 2003-2004 to implement a training program relating to mental health consultation and education to jails, as identified in Part IX, Special Provisions, of this Act (Part IX, Special Provisions, 30. Department for Mental Health/Mental Retardation, f. Mental Health Consultation and Education to Jails)"; and

On page 222, after line 6 but before line 7, by inserting the following:

"f. Mental Health Consultation and Education to Jails: The Department for Mental Health/Mental Retardation Services shall develop a training curriculum and allocate funds to Regional Mental Health/Mental Retardation Boards for training, consultation and education of jailers and jail staff on screening and responding to the needs of individuals with mental illness in jails. The training curriculum shall be based on national best practices and include a model working agreement between a Regional Mental Health/Mental Retardation Board and a jail. The training shall be delivered by Regional Mental Health/Mental Retardation Board staff to jailers and jail staff on screening and responding to the needs of inmates with mental illness. Jailers and each jail staff except administrative support shall attend the training the first year of the program or within six months of employment. Remaining funds shall defray costs of the Regional Mental Health/Mental Retardation Board for entering into working agreements with the region's jails for: (1) delivery of the training curriculum to jailers and jail staff; and (2) consultation and education on individual inmate's needs to jailers and jail staff in accordance with a working agreement. The specific arrangements in a working agreement shall be based on the needs and capacities of the jail. Treatment services may also be provided for in a working agreement, but the cost of treatment is beyond the scope of this appropriation."; and

by adjusting subtotals and totals, accordingly.

The Senate Committee Amendment No. 2 to **HB 507** is as follows:

HB 507, On page 139, after line 22 but before line 23, by inserting the following:

"Fleming County

40. Funds Distributed Equally Among Fire Departments
Restricted Funds 100,000";

and renumber accordingly;

On page 154, Line 17, delete "City of Whitesburg - Water Line Extension" and insert "Letcher County Water and Sewer District - Water Line Extension (Routes 7 and 317)" in lieu thereof;

On page 154, line 18, delete "1,115,073" and insert "1,970,073" in lieu thereof;

On page 154, delete lines 24 through 26 and renumber accordingly;

On page155, between lines 1 and 2, insert the following item for fiscal year 2002-2003:

" 168. Letcher County - Provide funds to be shared equally among 10 Volunteer Fire Departments
Restricted Funds 200,000

169. Letcher County Parks and Recreation - Jenkins Baseball Park
Restricted Funds 100,000

170. Letcher County Parks and Recreation - Various parks in Letcher County
Restricted Funds 100,000

171. Cumberland Mountain Arts and Craft Council matching grant monies for the establishment of outdoor drama, "Little Shepherd of Kingdom Come"
Restricted Funds 30,000

172. Letcher County Sanitation for establishing door-to-door recycling
Restricted Funds 50,000

173. Letcher County Expansion of Senior Citizens Centers
Restricted Funds 100,000

174. Letcher County Water Authority (water tank for White Hill and expansion of water lines to Dry Fork, UZ and Premium)
Restricted Funds 160,000";

Renumber subsequent sections accordingly;

On page 158, between lines 1 and 2, insert the following for fiscal year 2003-2004:

"193. Martin County Fiscal Court - Ray Fields Park
Restricted Funds 65,000

194. Martin County Economic Development Authority - Adult Day Center
Restricted Funds 190,000

195. Martin County Emergency Management - Enhanced 911/GIS
Restricted Funds 100,000

196. Martin County Fiscal Court - Tomahawk Family Center
Restricted Funds 50,000

197. Martin County Fiscal Court - Grassy Family Center
Restricted Funds 50,000

198.	Martin County Fiscal Court - Pigeon Roost Family Center	
	Restricted Funds	50,000
199.	Martin County Fiscal Court - Turkey Family Center	
	Restricted Funds	50,000
200.	Martin County Fiscal Court - Courthouse Renovation	
	Restricted Funds	25,000
201.	Martin County Fiscal Court - Inez Park Improvements	
	Restricted Funds	30,000
202.	RCCC - Daycare equipment	
	Restricted Funds	30,000
203.	Historical Society - Museum/Tourism Project	
	Restricted Funds	40,000
204.	Martin County Fiscal Court - Fire Departments/Rescue Squad - Equipment and Firehouse Improvements	
	Restricted Funds	75,000
205.	Martin County Economic Development Authority - Shell Building	
	Restricted Funds	900,000
206.	Martin County Fiscal Court - County Garage	
	Restricted Funds	100,000";

Renumber subsequent sections accordingly;

On page 157, Line 17, delete "3,122,831" and insert "2,804,369" for fiscal year 2002-03 and insert "318,464" for fiscal year 2003-04;

On page 157, Line 21, delete "470,034" in fiscal year 2002-2003 and insert "470,034" in fiscal year 2003-2004; and

On page 157, Line 25, delete "1,033,289" in fiscal year 2002-03 and insert "1,033,289" in fiscal year 2003-2004.

The Senate Committee Amendment No. 3 to **HB 507** is as follows:

HB 507, On page 161, between lines 16 and 17, insert the following and renumber accordingly:

"224.	Pike County Fiscal Court - Long Fork Community Park at Virgie, KY	
	Restricted Funds	50,000
225.	Pike County Fiscal Court - Dorton Community Park	
	Restricted Funds	50,000
226.	Pike County Fiscal Court - Construction of New Fire Station at Virgie	
	Restricted Funds	50,000
227.	Pike County Fiscal Court - Construction of New Fire Station at Island Creek	
	Restricted Funds	50,000
228.	Elkhorn City - Construction of Fair Grounds	
	Restricted Funds	50,000
229.	Pike County Fiscal Court - To be divided equally among all Pike County Fire Departments	
	Restricted Funds	100,000
230.	Pike County Fiscal Court - To be divided equally among all Senior Citizens Centers	

	Restricted Funds	100,000
231.	Pike County Fiscal Court - For Hope, Inc. - to be divided equally among three Centers	
	Restricted Funds	60,000
232.	Pike County Fiscal Court - KY Appalachian Center Project	
	Restricted Funds	50,000
233.	Pike County Fiscal Court - Chisholm Park Project Feasibility Study	
	Restricted Funds	100,000
234.	Pike County Fiscal Court - Freeburn Park Project	
	Restricted Funds	50,000
235.	Pike County Fiscal Court - Majestic Community Park	
	Restricted Funds	25,000
236.	Pike County Fiscal Court - Mountain Water District - 50 New Fire Hydrants	
	Restricted Funds	81,500
237.	Pike County Fiscal Court - Drug Rehabilitation Center Feasibility Study	
	Restricted Funds	50,000
238.	Elkhorn City Heritage Council - Operations and Project Development	
	Restricted Funds	10,000"

Representative Stumbo moved that the House refuse to concur in the Senate Committee Substitute, Senate Committee Amendment No. 1, Senate Committee Amendment No. 2, and Senate Committee Amendment No. 3 to **HB 507**. Agreed.

HB 658, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non concurrence in Senate Amendment. Agreed.

The Senate Committee Substitute to **HB 658** is as follows:

HB 658, AN ACT making appropriations for the operations, maintenance, support, and functioning of the judicial branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, restricted funds accounts, or federal funds accounts for the fiscal year beginning July 1, 2002, and ending June 30, 2003, and for the fiscal year beginning July 1, 2003, and ending June 30, 2004, in the following sums to be used for the purposes of the judicial branch of the government of the Commonwealth of Kentucky including the Supreme Court, Court of Appeals, Circuit Court, District Court, the Administrative Office of the Courts, pretrial services, juvenile services, judicial boards and commissions, the State Law Library, judicial retirement, local facilities fund, local facilities use allowance contingency fund, and for services performed by the circuit clerks' offices, including both Circuit and District Court support.

1. Court of Justice

   a. Court operations and administration

	2002-03	2003-04
General Fund	148,521,200	153,779,200
Restricted Funds	11,126,100	11,701,100
Federal Funds	1,412,200	1,223,800
Total	161,059,500	166,704,100

Funds are included to provide a two and seven tenths percent (2.7%) salary adjustment in fiscal year 2002-2003 and in fiscal year 2003-2004 for nonelected court personnel. Included are funds to provide for a two and seven tenths percent (2.7%) salary adjustment for justices and judges in fiscal year 2002-2003 and a two and seven tenths percent (2.7%) salary adjustment for the justices and judges in fiscal year 2003-2004. Also included are funds for the salaries of the circuit clerks in fiscal year 2002-2003 and in fiscal year 2003-2004 as provided for in the Judicial Branch Budget Recommendation.

Notwithstanding KRS 24A.100(3), funds are included in the above General Fund appropriation to continue the statutory maximum salary of trial commissioners as provided for in the Judicial Branch Budget Recommendation.

Included in the above appropriation is $125,000 in fiscal year 2002-2003 and $200,000 in fiscal year 2003-2004 to support the Kentucky Legal Education Opportunities Program (KLEO). Participants may be required to meet certain grade point average (GPA) conditions.

Included in the above General Fund appropriation are funds to support the addition of a trial commissioner in Ohio County.

b. Local Facilities Fund

	2002-03	2003-04
General Fund	49,346,300	58,095,300

The use allowance for the Fayette County Courthouse is contingent upon Short Street in Lexington, Kentucky, remaining open to vehicular traffic.

Included in the above appropriation are moneys to compensate local units of government for providing court space and for costs incurred in the development of local court facilities as defined in KRS Chapter 26A and provided in Part II of this Act, and to perform all other acts required or authorized by KRS Chapter 26A.

Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2001-2002 shall not lapse and shall continue into fiscal year 2002-2003, and any unexpended balance at the close of fiscal year 2002-2003 shall not lapse and shall be continued into fiscal year 2003-2004.

To the extent that facilities authorized by the 2000 General Assembly do not become operational as anticipated, the Judicial Branch is authorized to utilize up to $701,800 in fiscal year 2002-2003 and $620,600 in fiscal year 2003-2004 for the purpose of supporting expenditures relating to agencies and programs within the Administrative Office of the Courts. The Chief Justice of the Supreme Court shall have the ability to transfer these funds to other programs and budget units within the Judicial Branch. Any funds transferred to other budget units within the Judicial Branch may be used to support any activity, program, or operation of the budget unit or program receiving the respective funds.

c. Local Facilities Use Allowance Contingency Fund

	2002-03	2003-04
General Fund	0	0

Notwithstanding KRS 45.229, any remaining unexpended balance at close of fiscal year 2001-2002 shall not lapse, but be continued into fiscal year 2002-2003, and any remaining unexpended balance at the close of fiscal year 2002-2003 shall not lapse, but be continued into fiscal year 2003-2004 to provide for cost overruns in authorized court facilities projects not to exceed fifteen percent (15%) of the use allowance in accordance with KRS Chapter 26A. For any court facility project which is occupied and use allowance funding is insufficient, the use allowance payments shall be approved from the Local Use Allowance Contingency Fund. If funds are not available in the Local Facilities Use Allowance Contingency Fund, the use allowance shall be deemed a necessary governmental expense. (General Fund Surplus Account, KRS 48.700)

Total Court of Justice

	2002-03	2003-04
General Fund	197,867,500	211,874,500
Restricted Funds	11,126,100	11,701,100
Federal Funds	1,412,200	1,223,800
TOTAL	210,405,800	224,799,400

2. Judicial Form Retirement System

	2002-03	2003-04
General Fund	2,500,600	2,519,400

General Fund amounts are included to provide for the 2001 actuarial assessed needs of the Judicial Form Retirement System.

TOTAL - OPERATING BUDGET

	2002-03	2003-04
General Fund	200,368,100	214,393,900
Restricted Funds	11,126,100	11,701,100

Federal Funds	1,412,200	1,223,800
TOTAL	212,906,400	227,318,800

PART II

CAPITAL PROJECTS BUDGET

1. Local Facility Projects
    a. Franklin County - Lease Office Space
    b. Franklin County - Lease Court of Appeals
    c. Jefferson County - Courts Parking Lease

For any court facility project which is occupied and use allowance funding is insufficient, the use allowance payments shall be approved from the Local Facilities Use Allowance Contingency Fund. If funds are not available in the Local Facilities Use Allowance Contingency Fund, the use allowance payments shall be deemed a necessary governmental expense. (General Fund Surplus Account, KRS 48.700)

Nothing in this Act shall reduce the funding of court facility projects authorized by the General Assembly.

TOTAL - JUDICIAL BRANCH BUDGET

	2002-03	2003-04
General Fund	200,368,100	214,393,900
Restricted Funds	11,126,100	11,701,100
Federal Funds	1,412,200	1,223,800
TOTAL	212,906,400	227,318,800

PART III

GENERAL PROVISIONS

1. The Director of the Administrative Office of the Courts with the approval of the Chief Justice may expend any of the funds appropriated for the court operation and administration in any lawful manner and for any legal purpose that the Chief Justice shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the judicial branch of government.

2. The Court of Justice shall not incur any obligation for any program against the General Fund appropriations contained in this Act unless that program may be reasonably determined to have been contemplated by the proposed judicial budget, as modified and enacted, and supported by the statutory budget memorandum and other pertinent records.

3. Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

4. Any appropriation item and sum in this Act and in an appropriation provision in another Act of the 2002 General Assembly which constitutes a duplicate appropriation shall be governed by KRS 48.312.

5. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

6. Notwithstanding KRS 45.229, any unexpended balance remaining in the Court's restricted funds accounts or federal funds accounts at the close of the fiscal years ending June 30, 2002, and June 30, 2003, shall not lapse and shall continue into the next fiscal year.

7. Proposed revisions to restricted funds and federal funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The Director of the Administrative Office of the Courts shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

8. The Chief Justice shall cause the Director of the Administrative Office of the Courts to prepare a final budget document reflecting the 2002-2004 biennial budget of the Court of Justice. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within sixty (60) days of the adjournment of the 2002 Regular Session of the General Assembly.

9. Funding for the Commonwealth's family courts has been continued during fiscal year 2002-2003 and fiscal year 2003-2004. Continuation of the Family Court Pilot Project is recognition that additional time and experience are required to properly assess the success of the Family Court Project.

10. Notwithstanding KRS 30A.200(4), in addition to providing for the provisions in accordance with KRS 30A.200(4), the fees deposited for this purpose shall also be used to provide funds to support the costs associated with establishing a Deputy Clerk Career Ladder as follows: Contingent upon the passage of 2002 House Bill 452, or other enabling legislating, after every fifth, tenth, and fifteenth year of continuous service, and with the recommendation of the Circuit Clerk, Deputy Circuit Clerks shall be reclassified to the next highest corresponding employment class and pay grade level at each such interval. Deputy Circuit

Clerks employed as of the effective date of this Act shall be eligible for such a promotion based upon years of service and all reclassified and promoted deputy clerks shall receive a one thousand two hundred dollar ($1,200) per year increase in salary for each such reclassification or promotion. These funds shall not be subject to the provisions of Part IV of this Act or any legislation that provides funding for the operations, maintenance, support, and functioning of the judicial branch of government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state-supported activities.

PART IV

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The Judicial Branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

Representative Stumbo moved that the House refuse to concur in the Senate Committee Substitute to **HB 658**. Agreed.

SB 195 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative C. Belcher moved that **SB 195** be passed.

On the roll call the vote was: **Yeas 86, Nays 0**. (See March 27, 2002, roll call on **SB 195** - Appendix.)

SB 195 was passed and the title agreed to.

Representative C. Belcher moved that the vote by which **SB 195** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 55, with Committee Substitute, Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **SB 55**. Agreed.

Representative Burch moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **SB 55**.

On the roll call the vote was: **Yeas 62, Nays 26**. (See March 27, 2002, roll call on **SB 55** - Appendix.)

Floor Amendment No. 1 to the Committee Substitute to **SB 55** was adopted.

Representative Burch moved that **SB 55**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 27, 2002, roll call on **SB 55** - Appendix.)

SB 55, by way of Committee Substitute, as amended, was passed.

Representative Burch moved the adoption of the Committee Amendment No. 1 Title to **SB 55**. Agreed.

Representative Burch moved that the vote by which **SB 55**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 234, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the Committee Substitute to **SB 234**. Agreed.

Representative Damron moved that **SB 234**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 85, Nays 3**. (See March 27, 2002, roll call on **SB 234** - Appendix.)

SB 234, by way of Committee Substitute, was passed and the title agreed to.

Representative Damron moved that the vote by which **SB 234**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 222 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved that **SB 222** be passed.

On the roll call the vote was: **Yeas 90, Nays 2**. (See March 27, 2002, roll call on **SB 222** - Appendix.)

SB 222 was passed and the title agreed to.

Representative Stein moved that the vote by which **SB 222** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 100 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 100** be returned to the Orders of the Day and retain its position. Agreed.

SB 229 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **SB 229** be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 27, 2002, roll call on **SB 229** - Appendix.)

SB 229 was passed and the title agreed to.

Representative Marzian moved that the vote by which **SB 229** was passed be reconsidered and said motion be placed on the table. Agreed.

SJR 153 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **SJR 153** be adopted.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 27, 2002, roll call on **SJR 153** - Appendix.)

SJR 153 was adopted.

Representative Bruce moved that the vote by which **SJR 153** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 38, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **SB 38**, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 27, 2002, roll call on **SB 38** - Appendix.)

SB 38, was passed and the title agreed to.

Representative Moberly moved that the vote by which **SB 38**, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 194, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non concurrence in Senate Amendment. Agreed.

The Senate Committee Amendment No. 1 to **HB 194** is as follows:

HB 194, On page 1, line 8, after "pages," by deleting "***fifty dollar ($50)***" and inserting in lieu thereof "***thirty-five dollars ($35)***".

Representative Barrows moved that the House concur in Senate Committee Amendment No. 1 to **HB 194**. Agreed.

Representative Barrows moved that **HB 194**, as amended, by the Senate, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 27, 2002, roll call on **HB 194** - Appendix.)

HB 194, as amended, by the Senate, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 194**, as amended, by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 428, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non concurrence in Senate Amendment. Agreed.

The Senate Committee Substitute to **HB 428**, is as follows:

HB 428, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 508.130 is amended to read as follows:

As used in KRS 508.130 to 508.150, unless the context requires otherwise:

(1) (a) To "stalk" means to engage in an intentional course of conduct:
1. Directed at a specific person or persons;
2. Which seriously alarms, annoys, intimidates, or harasses the person or persons; and
3. Which serves no legitimate purpose.

(b) The course of conduct shall be that which would cause a reasonable person to suffer substantial mental distress.

(2) "Course of conduct" means a pattern of conduct composed of two (2) or more acts, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct." If the defendant claims that he was engaged in constitutionally protected activity, the court shall determine the validity of that claim as a matter of law and, if found valid, shall exclude that activity from evidence.

(3) "Protective order" means:
(a) An emergency protective order or domestic violence order issued under KRS 403.715 to 403.785;
(b) A foreign protective order, as defined in KRS 403.7521(1);
(c) An order issued under KRS 431.064;[~~ and~~]
(d) *A restraining order issued in accordance with Section 2 of this Act; and*
(e) Any condition of a bond, conditional release, probation, parole, or pretrial diversion order designed to protect the victim from the offender.

SECTION 2. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

(1) A verdict of guilty or a plea of guilty to KRS 508.140 or 508.150 shall operate as an application for a restraining order limiting the contact of the defendant and the victim who was stalked, unless the victim requests otherwise.

(2) The court shall give the defendant notice of his or her right to request a hearing on the application for a restraining order. If the defendant waives his or her right to a hearing on this matter, then the court may issue the restraining order without a hearing.

(3) If the defendant requests a hearing, it shall be held at the time of the verdict or plea of guilty, unless the victim or defendant requests otherwise. The hearing shall be held in the court where the verdict or plea of guilty was entered.

(4) A restraining order may grant the following specific relief:
(a) An order restraining the defendant from entering the residence, property, school, or place of employment of the victim; or
(b) An order restraining the defendant from making contact with the victim, including an order forbidding the defendant from personally, or through an agent, initiating any communication likely to cause serious alarm, annoyance, intimidation, or harassment including, but not limited to, personal, written, telephonic, or any other form of written or electronic communication or contact with the victim. An order issued pursuant to this subsection relating to a school, place of business, or similar nonresidential location shall be sufficiently limited to protect the stalking victim but shall also protect the defendant's right to employment, education, or the right to do legitimate business with the employer of a stalking victim as long as the defendant does not have contact with the stalking victim. The provisions of this subsection shall not apply to a contact by an attorney regarding a legal matter.

(5) A restraining order issued pursuant to this section shall be valid for a period of not more than ten (10) years, the specific duration of which shall be determined by the court. Any restraining order shall be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of the victim, his or her immediate family, or both.

(6) Unless the defendant has been convicted of a felony, or is otherwise ineligible to purchase or possess a firearm under federal law, a restraining order issued pursuant to this section shall not operate as a ban on the purchase or possession of firearms or ammunition by the defendant.

(7) The restraining order shall be issued on a form prescribed by the Administrative Office of the Courts and may be lifted upon application of the stalking victim to the court which granted the order.

(8) Within twenty-four (24) hours of entry of a restraining order or entry of an order rescinding a restraining order, the circuit clerk shall forward a copy of the order to the Law Information Network of Kentucky (LINK).

(9) A restraining order issued under this section shall be enforced in any county of the Commonwealth. Law enforcement officers acting in good faith in enforcing a restraining order shall be immune from criminal and civil liability.

(10) A violation by the defendant of an order issued pursuant to this section shall be a Class A misdemeanor. Nothing in this section shall preclude the filing of a criminal complaint for stalking based on the same act which is the basis for the violation of the restraining order.

Section 3. KRS 431.005 is amended to read as follows:

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his presence; or

(c) Without a warrant when he has probable cause to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his presence; or

(e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his presence, except that a violation of KRS 189A.010 or KRS 281A.210 need not be committed in his presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person has violated KRS 189A.010 or KRS 281A.210.

(2) (a) Any peace officer may arrest a person without warrant when the peace officer has probable cause to believe that the person has intentionally or wantonly caused physical injury to a family member or member of an unmarried couple.

(b) For the purposes of this subsection, the term "family member" means a spouse, including a former spouse, a parent, a grandparent, a child, a stepchild, or any other person related by consanguinity or affinity within the second degree.

(c) For the purpose of this subsection, the term "member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together.

(3) For purposes of subsection (2) of this section, a "peace officer" is:

(a) A full-time sworn officer of the Kentucky State Police, a full-time sworn officer of the Kentucky Horse Park, a commissioned full-time state park ranger, a full-time officer of the Division of Law Enforcement within the Department of Fish and Wildlife Resources who is exercising authority under KRS Chapter 235, a full-time city policeman, a full-time county policeman, a full-time university safety and security officer appointed pursuant to KRS 164.950 to 164.970, a full-time city-county policeman, a duly elected sheriff, or a full-time paid deputy sheriff; or

(b) A part-time paid law enforcement officer, or a special paid deputy, who has completed a Kentucky law enforcement council approved education and training program referred to in KRS 403.784.

(c) The provisions of this section relating to training shall not apply to a deputy sheriff who is subject to the training requirements specified in KRS 70.263(3).

(4) If a law enforcement officer has probable cause to believe that a person has violated a condition of release imposed in accordance with KRS 431.064 and verifies that the alleged violator has notice of the conditions, the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

(5) A private person may make an arrest when a felony has been committed in fact and he has probable cause to believe that the person being arrested has committed it.

(6) If a law enforcement officer has probable cause to believe that a person has violated a restraining order issued under Section 2 of this Act, then the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

Representative Wilkey moved that the House concur in the Senate Committee Substitute to **HB 428**. Agreed

Representative Wilkey moved that **HB 428**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 27, 2002, Message received on roll call on **HB 428** - Appendix)

HB 428, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 428**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 452, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non concurrence in Senate Amendment. Agreed.

The Senate Committee Substitute to **HB 452**, is as follows:

HB 452, AN ACT relating to monetary penalties in criminal cases.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 23A.205 is amended to read as follows:

(1) Court costs for a criminal case in the Circuit Court shall be ***one hundred dollars ($100)***[~~eighty-two dollars ($82), which shall include the fee mandated in KRS 346.185~~].

(2) ***The taxation of court costs against a defendant, upon conviction in a case, shall be mandatory and shall not be subject to probation, suspension, proration, deduction, or other form of nonimposition in the terms of a plea bargain or otherwise, unless the court finds that the defendant is a poor person as defined by KRS 453.190(2) and that he or she is unable to pay court costs and will be unable to pay the court costs in the foreseeable future***[~~Except as provided in KRS 346.185, taxation of costs against a defendant, upon conviction, may be probated or suspended at the discretion of the court~~].

(3) ***If the court finds that the defendant does not meet the standard articulated in subsection (2) of this section and that the defendant is nonetheless unable to pay the full amount of the court costs and fees at the time of sentencing, then the court shall establish a show cause date by which time the court costs, fees, and fines shall be paid and may establish an installment payment plan whereby the defendant pays the full amount of the court costs, fees, and fines to the circuit clerk in installments as established by the court. All court costs and fees under the installment plan shall be paid within one (1) year of the date of sentencing notwithstanding any remaining restitution or other monetary penalty owed by the defendant and arising out of the conviction. Installment payments will be applied first to court costs, then to restitution, then to fees, and then to fines***[~~Additional fees shall be charged in Circuit Court criminal matters as follows:~~

~~(a) Preparing a certification .... $1.00~~

~~(b) Preparing a copy of a document (per page) .... $0.15~~

~~(4) The additional fees required by subsection (3) of this section shall be paid to the clerk at the time the service is requested.~~

~~(5) The circuit clerk shall monthly pay twelve dollars ($12) from each court cost collected pursuant to subsection (1) of this section to the sheriff for the payment of bailiffs for court security as provided for in KRS 64.092. The clerk shall include among his reports to the Administrative Office of the Courts the amounts paid to the sheriff~~].

SECTION 2. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:

In criminal cases, the following fees shall be charged by the circuit clerk and paid to the clerk at the time the corresponding services are requested:

(1) Preparing an attestation $0.50

(2) Preparing a certification $5.00

(3) Preparing a copy of a document (per page) $0.25

Section 3. KRS 23A.215 is amended to read as follows:

(1) Except as provided in ***subsection***[~~subsections~~] (2)[~~ and (3)~~] of this section, all fees and costs collected pursuant to KRS 23A.200(1) shall be deposited in the general fund of the State Treasury.

(2) Fees consisting of reimbursement for incidental direct outlays, including, but not limited to, postage and legal advertising, may be retained by the clerk and expended for these purposes in accordance with relevant directives of the Administrative Office of the Courts.

(3) ***Additional costs in Circuit Court civil cases authorized by subsection (2) of KRS 23A.200 shall be paid to the sheriff or other officer serving the process***[~~The moneys authorized by subsection (5) of KRS 23A.205 shall be paid monthly to the sheriff for use by the sheriff for providing security services and related activities to the court as provided for in KRS 64.092~~].

(4) Filing fees in civil actions shall be recoverable as costs.

(5) No later than the seventh working day of each month the circuit clerk shall pay the funds collected from each court cost collected under Section 1 of this Act to the court cost distribution fund established in Section 9 of this Act and report to the Finance and Administration Cabinet and the Administrative Office of the Courts the amounts deposited

into the court cost distribution fund.

Section 4. KRS 24A.175 is amended to read as follows:

(1) Court costs for a criminal case in the District Court shall be ***one hundred dollars ($100), regardless of whether the offense is one for which prepayment is permitted***[~~:~~

~~(a) For an offense for which prepayment is permitted and for which prepayment has been made prior to trial as required by law .... $49.00~~

~~(b) For an offense for which prepayment is not permitted or has not been made .... $74.00~~

~~(c) Court costs designated in paragraph (b) of this subsection shall include the fee mandated by KRS 346.185~~].

(2) There shall be no court costs for a parking citation when:

(a) The fine is paid to the clerk before the trial date in the same manner as provided for speeding citations under KRS 189.394(3); and

(b) The citation does not involve parking in a fire lane or blocking the traveled portion of the highway.

(3)[~~Additional costs shall be assessed in District Court criminal matters as follows:~~

~~(a) Preparing an attestation .... $0.50~~

~~(b) Preparing a certification .... $1.00~~

~~(c) Preparing a copy of a document (per page) .... $0.25~~

~~(4)~~] ***The*** taxation of ***court*** costs against a defendant, upon conviction ***in a case***, including persons sentenced to state traffic school as provided under KRS 186.574, shall be mandatory and shall not be ***subject to probation, suspension, proration, deduction, or other form of nonimposition in the terms of a plea bargain or otherwise, unless the court finds that the defendant is a poor person as defined by KRS 453.190(2) and that he or she is unable to pay court costs and will be unable to pay the court costs in the foreseeable future***[~~probated or suspended~~].

(4)[~~(5)~~] ***If the court finds that the defendant does not meet the standard articulated in subsection (3) of this section and that the defendant is nonetheless unable to pay the full amount of the court costs, fees, and fines at the time of sentencing, then the court shall establish a show cause date by which time court costs, fees, and fines shall be paid and may establish an installment payment plan whereby the defendant pays the full amount of the court costs, fees, and fines to the circuit clerk in installments as established by the court. The court costs, fees, and fines under the installment plan shall be paid within one (1) year of the date of sentencing notwithstanding any remaining restitution or other monetary penalty owed by the defendant and arising out of the conviction. Installment payments will be applied first to court costs, then to restitution, then to fees, and then to fines***[~~The circuit clerk shall, at the time fines and costs are paid over to the state, pay five dollars ($5) from each court cost collected pursuant to subsection (1) of this section to the county treasurer for use by the fiscal court for the sole purpose of defraying the costs of operation of the county jail and the transportation of prisoners and shall include among his reports to the Administrative Office of the Courts the amounts paid to the county.~~

~~(6) The circuit clerk shall, at the time fines and costs are paid over to the state, pay ten dollars ($10) from each court cost collected pursuant to subsection (1) of this section to the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority pursuant to KRS 441.625 to 441.695.~~

~~(7) The circuit clerk shall monthly pay twelve dollars ($12) from each court cost collected pursuant to subsection (1) of this section to the sheriff for use by the sheriff for providing security services and related activities to the court as provided for in KRS 64.092. The clerk shall include among his reports to the Administrative Office of the Courts the amounts paid to the sheriff~~].

SECTION 5. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

In criminal cases, the following fees shall be charged by the circuit clerk and paid to the clerk at the time the corresponding services are requested:

(1) Preparing an attestation $0.50

(2) Preparing a certification $5.00

(3) Preparing a copy of a document (per page) .... $0.25.

Section 6. KRS 24A.180 is amended to read as follows:

(1) Except as provided in subsection (2) of this section all fees and costs collected pursuant to KRS 24A.170(1) shall be deposited in the general fund of the State Treasury.

(2) Fees consisting of reimbursement for incidental direct outlays, including, but not limited to, postage and legal advertising, may be retained by the clerk and expended for these purposes in accordance with relevant directives of the Administrative Office of the Courts.

(3) Additional costs in District Court civil cases authorized by subsection (2) of KRS 24A.170 shall be paid to the sheriff or other officer serving the process.

(4)[~~ Costs and additional costs authorized by subsections (1), (2), (3), (4), (5) and (6) of KRS 24A.175 shall be placed in the general fund of the State Treasury and may be appropriated as provided by law.~~

~~(5) The moneys authorized by subsection (7) of KRS 24A.175 shall be paid monthly to the sheriff for use by the sheriff for providing security services and related activities to the court as provided for in KRS 64.092.~~

~~(6)~~] Filing fees in civil actions shall be recoverable as costs.

(5) No later than the seventh working day of each month the circuit clerk shall pay the funds from each court cost collected under Section 4 of this Act to the court cost distribution fund established in Section 9 of this Act and report to the Finance and Administration Cabinet and the Administrative Office of the Courts the amounts deposited into the court cost distribution fund.

Section 7. KRS 30A.200 is amended to read as follows:

All moneys which are deposited with the clerk and which are payable to a third person, not the Commonwealth, or which may become payable to such third person as a result of court action or otherwise shall[~~ be~~]:

(1) ***Be*** logged in the appropriate record of the clerk and the person paying or depositing the money shall be given a receipt;

(2) ***Be*** deposited daily in a bank approved as a state depository bank in a special escrow account or accounts subject to the clerk's withdrawal as required in the daily course of the clerk's business or as may be ordered by a court; ***and***

(3) Not ***be*** subject to the provisions of KRS Chapter 41 relating to the deposit of money in the State Treasury until by action of a court, such as forfeiture of a bond, the money is due and owing to the Commonwealth[~~; and~~

~~(4) In a criminal proceeding or in a proceeding under KRS Chapter 186 to KRS Chapter 189A, assessed a fee of five percent (5%) of the total value of the deposit, which shall be paid by the depositor at the time of making the deposit and which shall be in addition to the amount deposited. The fee shall be deposited by the clerk into a trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerk to hire additional deputy clerks and for enhancement of deputy clerk salaries to compensate for the additional duties necessitated by this section~~].

Section 8. KRS 31.051 is amended to read as follows:

[~~(1) With the exception of the administrative fee contained in subsection (2) of this section, ~~]All moneys received by the public advocate from indigent defendants pursuant to KRS Chapter 31 or which are collected by the public advocate pursuant to KRS Chapter 431 shall be credited to the public advocate fund of the county in which the trial is held and shall not be credited to any general account maintained by or for the public advocate. Moneys credited to a county public advocate fund may be used only to support the public advocate program of that county.

[~~(2) Any person provided counsel under the provisions of this chapter shall be assessed at the time of appointment, a nonrefundable fifty dollar ($50) administrative fee, payable, at the court's discretion, in a lump sum or in installments. The first payment shall be accompanied by a handling fee of two dollars and fifty cents ($2.50) to be paid directly to the Circuit Clerk and deposited in a trust and agency account to the credit of the Administrative Office of the Courts. The account shall be used to assist the circuit clerks in hiring additional employees and providing salary adjustments for deputy clerks. The court shall reduce or waive the fee if the person does not have the financial resources to pay the fee. In any case or legal action a needy person shall be assessed a total administrative fee of no more than fifty dollars ($50), regardless of the stages of the matter at which the needy person is provided appointed counsel. In the event the defendant fails to pay the fee, the fee shall be deducted from any posted cash bond or shall constitute a lien upon any property which secures the person's bail, regardless of whether the bond is posted by the needy person or another. The failure to pay the fee shall not reduce or in any way affect the rendering of public defender services to the person.~~

~~(3) The administrative fee shall be in addition to any other contribution or recoupment assessed by the court pursuant to KRS 31.120 and shall be collected in accordance with that section.~~

~~(4) The administrative fees collected pursuant to this subsection (2) shall be placed in a special trust and agency account for the Department of Public Advocacy, and the funds shall not lapse.~~

~~(5) If the administrative fee, or any portion thereof, is not paid by the due date, the court's order is a civil judgment subject to collection under Civil Rule 69.03 and KRS Chapter 426.~~]

SECTION 9. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the court cost distribution fund, which is created to provide a central account into which the court costs collected by all circuit clerks, under subsection (1) of Section 1 of this Act and subsection (1) of Section 4 of this Act, shall be paid.

(2) The fund shall be administered by the Finance and Administration Cabinet, which shall make monthly disbursements from the fund according to the following schedule:

(a) Forty-nine percent (49%) of each court cost shall be paid into the general fund;

(b) Ten and eight-tenths percent (10.8%) of each court cost, up to five million four hundred thousand dollars ($5,400,000), shall be paid into the State Treasury for the benefit and use of the Kentucky Local Correctional

Facilities Construction Authority under KRS 441.605 to 441.695;

(c) Six and one-half percent (6.5%) of each court cost, up to three million two hundred fifty thousand dollars ($3,250,000), shall be paid into the spinal cord and head injury research trust fund created in KRS 211.504;

(d) Five and one-half percent (5.5%) of each court cost, up to two million seven hundred fifty thousand dollars ($2,750,000), shall be paid into the traumatic brain injury trust fund created in KRS 211.476;

(e) Five percent (5%) of each court cost, up to two million five hundred thousand dollars ($2,500,000), shall be paid into a trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerks to hire additional deputy clerks and to enhance deputy clerk salaries;

(f) Three and one-half percent (3.5%) of each court cost, up to one million seven hundred fifty thousand dollars ($1,750,000), shall be paid to a special trust and agency account that shall not lapse for the Department of Public Advocacy;

(g) Three and four-tenths percent (3.4%) of each court cost, up to one million seven hundred thousand dollars ($1,700,000), shall be paid into the crime victims' compensation fund created in KRS 346.185;

(h) Seven-tenths of one percent (0.7%) of each court cost, up to three hundred fifty thousand dollars ($350,000), shall be paid to the Justice Cabinet to defray the costs of conducting record checks on prospective firearms purchasers pursuant to the Brady Handgun Violence Prevention Act and for the collection, testing, and storing of DNA samples;

(i) Ten and one-tenth percent (10.1%) of each court cost, up to five million fifty thousand dollars ($5,050,000), deposited in the fund shall be paid to the county sheriff in the county from which the court cost was received; and

(j) Five and one-half percent (5.5%) of each court cost, up to two million seven hundred fifty thousand dollars ($2,750,000), deposited in the fund shall be paid to the county treasurer in the county from which the court cost was received and shall be used by the fiscal court in that county for the purposes of defraying the costs of operation of the county jail and the transportation of prisoners.

(3) Any moneys remaining in the fund after the monthly disbursements in subsection (2) of this section shall be paid into the general fund.

(4) Any moneys collected above the prescribed amount shall be paid into the general fund.

Section 10. KRS 64.092 is amended to read as follows:

Compensation of sheriffs and other law enforcement officers or agencies for attending court shall be as follows:

(1) Compensation shall be provided only for the actual time for which the sheriff or other officer is ordered to be physically present in the courtroom or is ordered to be physically present to discharge a duty ordered by the Chief Circuit Judge, Chief District Judge, or Judge of the Court of Appeals, as appropriate.

(2) Compensation shall not be provided for more than one (1) sheriff or other officer per courtroom unless the need for additional personnel is certified in writing by the Chief Circuit Judge, Chief District Judge, or Judge of the Court of Appeals, as appropriate, and the utilization of additional personnel is approved by the Chief Justice, or his designee. In the event of an emergency of such nature precluding contacting the Chief Justice or his designee, the Chief Circuit Judge, Chief District Judge, or Judge of the Court of Appeals may authorize such assignment of additional personnel for a period not to exceed twenty-four (24) hours.

(3) Where a single sheriff or other law enforcement officer serves more than one (1) court or courtroom during a single day, he shall be paid as if he had served only one (1) courtroom during that day. Dual compensation for service during a single day shall not be permitted.

(4) Time, for compensation purposes, shall be computed as the actual time spent in the courtroom pursuant to court direction or order and the actual time spent in other service to the court as directed or ordered by the appropriate judge.

(5) Time spent in court service by a sheriff or other law enforcement officer shall be certified by the judge of the court which the officer attended and by the Chief Judge of the Circuit Court, if the service was to the Circuit Court, or by the Chief Judge of the District Court, if the service was to the District Court.

(6) The sheriff or other law enforcement officer serving a Circuit or District Court shall be compensated at the rate of eight dollars ($8) per hour of service. If service is for a part of an hour, then compensation for such service shall be prorated for the actual number of minutes' service within a given hour.

(7) The sheriff shall receive *the disbursements provided for in paragraph (i) of subsection (2) of Section 9 of this Act*[~~twelve dollars ($12) from each court cost collected pursuant to KRS 23A.205, 23A.215, 24A.175, and 24A.180~~] to help defray the cost of providing security services and related activities to the court. The moneys received by the sheriff under this subsection are authorized official expenses to be considered operating expenses of the sheriff's office and shall not be considered as part of his compensation.

Section 11. KRS 149.180 is amended to read as follows:

Whenever possible, the secretary for natural resources and environmental protection shall collect the costs of firefighting done and approved as provided in KRS 149.160, from the person responsible for the origin of the fire by his negligence or intent. The recovered costs shall be deposited in a special fund in the Natural Resources and Environmental Protection Cabinet. The recovered costs shall be repaid to the county in which the costs were incurred, if such county has fully paid its annual assessment to the statewide system as provided for in KRS 149.540 for the year in which the fire suppression costs were incurred. If a county is not eligible to receive the recovered costs, the money shall be used by the Division of Forestry to improve fire protection services. The funds so repaid to the county shall be placed in the county forest fire protection fund provided for in KRS 149.590. Any money in the Natural Resources and Environmental Protection Cabinet's special fund upon July 15, 1998, that were not repaid to a county for having failed to fully pay its annual assessment, shall be used by the Division of Forestry to improve fire protection services. In the event the suppression cost is not collected, the Commonwealth's attorney of the county in which the fire occurred shall institute and prosecute the necessary proceedings. ***Costs recovered under this section shall be ordered to be paid directly to the Natural Resources and Environmental Protection Cabinet. The court shall not direct that the costs be paid through the circuit clerk.***

Section 12. KRS 149.430 is amended to read as follows:

(1) If any forest fire shall originate as a result of the violation by any person of any provision of KRS 149.360 to 149.430, such person shall be, in addition to the penalty prescribed under KRS 149.991, liable to the state and to each county for the full amount of all expenses incurred by the state and county respectively in suppressing each fire, such amounts to be recoverable by action brought by the secretary for natural resources and environmental protection in the name of the Commonwealth on behalf of the Commonwealth and by the county attorney on behalf of the county.

(2) In addition to any penalty pursuant to KRS 149.991, any person violating any of the provisions of KRS 149.360 to 149.430 shall be answerable in damages to any persons suffering such damage for the cost incurred in the suppression of any fire resulting from such violation and for damage to property resulting from such fires.

(3) Damages assessed under this section shall be ordered to be paid directly to the Natural Resources and Environmental Protection Cabinet or to any other injured person or organization specified by written order of the court. The court shall not direct that the damages be paid through the circuit clerk.

Section 13. KRS 150.990 is amended to read as follows:

(1) Each bird, fish, or animal taken, possessed, bought, sold, or transported and each device used or possessed contrary to the provisions of this chapter or any administrative regulation promulgated by the commission thereunder shall constitute a separate offense. The penalties prescribed in this section shall be for each offense.

(2) Any person who violates any of the provisions of this chapter or any administrative regulations promulgated by the commission thereunder may, in addition to the penalties provided in subsections (3), (4), (5), (6), (7), and (8) of this section, forfeit his license, or if that person is license exempt, may forfeit the privilege to perform the acts authorized by the license and shall not be permitted to purchase another license or exercise the privileges granted by a license during the same license year. No fines, penalty, or judgment assessed or rendered under this chapter shall be suspended, reduced, or remitted otherwise than expressly provided by law. Any person who violates any administrative regulation which has been or may be promulgated by the commission under any provisions of this chapter shall be subject to the same penalty as is provided for the violation of any provisions of this chapter under which the administrative regulation is promulgated.

(3) Any person who violates any of the provisions of KRS 150.120, 150.170, 150.280, 150.320, 150.355, 150.362, 150.400, 150.410, 150.415, 150.416, 150.445, 150.450, 150.470, 150.603, 150.235(1), 150.330(2), or 150.470, or any of the provisions of this chapter or any administrative regulation promulgated by the commission for which no definite fine or imprisonment is fixed shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200).

(4) Any person who violates any of the provisions of KRS 150.290, 150.300, 150.340, 150.360, 150.362(1), 150.485, 150.600, 150.630, 150.660, the provisions of KRS 150.195(5) to (8), or KRS 150.660(3) shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) or be imprisoned for not more than six (6) months, or both. Also, any person violating the provisions of KRS 150.300 shall be assessed treble damages as provided in KRS 150.690 or 150.700. ***Damages assessed under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the damages be paid through the circuit clerk.***

(5) Any person who violates any of the provisions of KRS 150.411, 150.412, or 150.417 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(6) Any person who violates any of the provisions of KRS 150.183, 150.305, 150.365, 150.370, 150.330(1), or 150.235(2), (3), or (4) shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(7) Any person who violates any of the provisions of KRS 150.460 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both, and in addition to these penalties shall be liable to the department in an amount not to exceed the replacement value of the fish and wildlife which has been killed or destroyed. ***Costs assessed for the restoration of wildlife under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the costs be paid through the circuit clerk.***

(8) Any person who violates the provisions of KRS 150.180, 150.520, 150.525, or administrative regulations issued thereunder shall for the first offense be fined not less than one hundred dollars ($100) nor more than one thousand dollars

($1,000); and shall for a second offense be fined not less than five hundred dollars ($500) nor more than one thousand five hundred dollars ($1,500); and for any subsequent offense, be fined two thousand dollars ($2,000).

(9) Any person who violates the provisions of KRS 150.520 or administrative regulations issued thereunder shall, if the violation relates to methods of taking mussels, for a first offense be imprisoned in the county jail for no more than thirty (30) days; for a second offense be imprisoned in the county jail for no more than six (6) months; and for any subsequent offense be imprisoned in the county jail for no more than one (1) year. The penalties for violation of ***this*** subsection~~[(9)]~~ shall be in addition to the penalties for violation of subsection (8).

(10) Any person who violates any of the provisions of KRS 150.4111, 150.640, or subsections (2) or (3) of KRS 150.450 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(11) Any person who violates any of the provisions of KRS 150.390 or KRS 150.092(4) shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for not less than thirty (30) days nor more than one (1) year, or both. In addition to the penalties prescribed above, he shall forfeit his license or, if license exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years and shall be liable to the department in an amount reasonably necessary to replace any deer, wild turkey, or bear taken in violation of KRS 150.390 and for violations of subsection (4) of KRS 150.092 shall be liable to the landowner or occupant for reasonable compensation for damages. ***Wildlife replacement costs assessed under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the damages be paid through the circuit clerk. Damages assessed under this subsection shall be ordered to be paid directly to the landowner or occupant. The court shall not direct that the damages be paid through the circuit clerk.*** Any person who possesses, takes, or molests a wild elk in violation of KRS 150.390 or administrative regulations adopted under authority of that section shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) or imprisoned for up to six (6) months, or both. In addition to these penalties, the person shall pay to the department an amount not to exceed the greater of the replacement cost of the wild elk or double any monetary gain realized from the illegal activity and shall forfeit his or her license, or if license exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years.

(12) Any person who violates any of the provisions of KRS 150.090 other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be guilty of a Class A misdemeanor.

(13) Any person who commits a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be subject to the penalties specified for the offense under KRS Chapter 507 or 508, as appropriate.

(14) A person shall be guilty of a Class B misdemeanor upon the first conviction for a violation of KRS 150.710. A subsequent conviction shall be a Class A misdemeanor.

(15) Any person who violates the provisions of KRS 150.092 or the administrative regulations promulgated thereunder for which no other penalty is specified elsewhere in this section shall for the first offense be fined not less than one hundred dollars ($100) nor more than three hundred dollars ($300); for the second offense, be fined not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000); and for subsequent offenses, shall forfeit the license, or if license-exempt, the privilege to perform the acts authorized by the license, for one (1) year and shall be fined not less than one thousand dollars ($1,000) or be imprisoned in the county jail for up to one (1) year, or both. In addition to the penalties prescribed in this subsection, the violator shall be liable to the landowner or tenant for the replacement cost of any property which was damaged or destroyed by his actions. ***Damages assessed under this subsection shall be ordered to be paid directly to the landowner or the tenant. The court shall not direct that the damages be paid through the circuit clerk.***

Section 14. KRS 177.978 is amended to read as follows:

(1) All revenues generated ***from the purchase of decals*** pursuant to KRS 177.990~~[(4) and]~~(5) and KRS 177.9771(4) and no other taxes or fees normally assessed on motor carriers shall be credited to a special account within the road fund called the "energy recovery road fund" and any additional funds obtained through state appropriation, gifts, grants and federal funds may be credited to the special account, and shall be used, in addition to those road funds normally used for said highways, exclusively by the Transportation Cabinet for those costs attendant to highway purposes for roads designated as part of the extended weight coal haul road system. All funds in the account shall be carried forward at the end of each year.

(2) All funds credited to the "coal recovery road fund" shall be transferred to the "energy recovery road fund."

Section 15. KRS 186.574 is amended to read as follows:

(1) The Transportation Cabinet shall establish a state traffic school for new drivers and for traffic offenders. The school shall be composed of uniform education and training elements designed to create a lasting influence on new drivers and a corrective influence on traffic offenders. District Courts may in lieu of assessing penalties for traffic offenses, other than for KRS 189A.010, sentence offenders to state traffic school and no other. The Transportation Cabinet shall enroll a person in state traffic school who fails to complete a driver's education course pursuant to KRS 186.410(5).

(2) If a District Court stipulates in its judgment of conviction that a person attend state traffic school, the court shall indicate

this in the space provided on the abstract of conviction filed with the Transportation Cabinet. Upon receipt of an abstract, the Transportation Cabinet, or its representative, shall schedule the person to attend state traffic school. Failure of the person to attend and satisfactorily complete state traffic school in compliance with the court order, may be punished as contempt of the sentencing court.

(3) The Transportation Cabinet shall supervise, operate, and administer state traffic school, and shall promulgate administrative regulations pursuant to KRS Chapter 13A governing facilities, equipment, courses of instruction, instructors, and records of the program. In the event a person sentenced under subsection (1) of this section does not attend or satisfactorily complete state traffic school, the Transportation Cabinet may deny that person a license or suspend the license of that person until he reschedules attendance or completes state traffic school, at which time a denial or suspension shall be rescinded.

(4) Persons participating in the state traffic school as provided in this section shall pay a fee of fifteen dollars ($15) to defray the cost of operating the school, except that if enrollment in state traffic school is to satisfy the requirement of KRS 186.410(4)(c), a fee shall not be assessed. Any funds collected pursuant to KRS 186.535(1) that are dedicated to the road fund for use in the state driver education program may be used for the purposes of state traffic school.

(5) The following procedures shall govern persons attending state traffic school pursuant to this section:

(a) A person convicted of any violation of traffic codes set forth in KRS Chapters 177, 186, or 189, and who is otherwise eligible, may in the sole discretion of the trial judge, be sentenced to attend state traffic school. Upon payment of the fee required by subsection (4) of this section, and upon successful completion of state traffic school, the sentence to state traffic school shall be the person's penalty in lieu of any other penalty, except for the payment of court costs;

(b) Except as provided in KRS 189.990*(27)*[~~(28)~~], a person shall not be eligible to attend state traffic school who has been cited for a violation of KRS Chapters 177, 186, or 189 that has a penalty of mandatory revocation or suspension of an offender's driver's license;

(c) Except as provided in KRS 189.990*(27)*[~~(28)~~], a person shall not be eligible to attend state traffic school for any violation if, at the time of the violation, the person did not have a valid driver's license or the person's driver's license was suspended or revoked by the cabinet;

(d) Except as provided in KRS 189.990*(27)*[~~(28)~~], a person shall not be eligible to attend state traffic school more than once in any one (1) year period, unless the person wants to attend state traffic school to comply with the driver education requirements of KRS 186.410; and

(e) The cabinet shall notify the sentencing court regarding any person who was sentenced to attend state traffic school who was ineligible to attend state traffic school. A court notified by the cabinet pursuant to this paragraph shall return the person's case to an active calendar for a hearing on the matter. The court shall issue a summons for the person to appear and the person shall demonstrate to the court why an alternative sentence should not be imposed.

Section 16. KRS 189.2329 is amended to read as follows:

(1) A person shall not intentionally destroy, remove, injure, or deface a temporary traffic control device erected for the purpose of enhancing traffic safety or worker safety in a highway work zone. A temporary traffic control device shall include, but not be limited to, a cone, tubular marker, delineator, warning light, drum, barricade, sign, sign truck, arrow board, or other device specified in an approved traffic control plan or by an administrative regulation promulgated by the cabinet pursuant to KRS Chapter 13A.

(2) A person who violates the provisions of this section shall, upon conviction, in addition to any other penalty established by statute, be sentenced to pay fifty dollars ($50) for each temporary traffic control device that the person destroyed, removed, injured, or defaced, and the person shall make restitution to the owner of the temporary traffic control device.[~~ All funds collected pursuant to this subsection shall be deposited in the highway work zone safety fund established pursuant to KRS 189.394.~~]

(3) Restitution payments to owners of temporary traffic control devices required to be made under subsection (2) of this section shall be paid directly to the owner of the device as specified by written order of the court. The court shall not direct that the payments be made through the circuit clerk.

Section 17. KRS 189.394 is amended to read as follows:

(1) The fines for speeding in violation of KRS 189.390 shall be:

Mph. Over Limit	Prima Facie or Maximum Speed										
	15	20	25	30	35	40	45	50	55	60	65	Fine
1	16	21	26	31	36	41	46	51	56	61	66	$1
2	17	22	27	32	37	42	47	52	57	62	67	2
3	18	23	28	33	38	43	48	53	58	63	68	3
4	19	24	29	34	39	44	49	54	59	64	69	4

5	20	25	30	35	40	45	50	55	60	65	70	5
6	21	26	31	36	41	46	51	56	61	66	71	16
7	22	27	32	37	42	47	52	57	62	67	72	17
8	23	28	33	38	43	48	53	58	63	68	73	18
9	24	29	34	39	44	49	54	59	64	69	74	19
10	25	30	35	40	45	50	55	60	65	70	75	20
11	26	31	36	41	46	51	56	61	66	71	76	22
12	27	32	37	42	47	52	57	62	67	72	77	24
13	28	33	38	43	48	53	58	63	68	73	78	26
14	29	34	39	44	49	54	59	64	69	74	79	28
15	30	35	40	45	50	55	60	65	70	75	80	30
16	31	36	41	46	51	56	61	66	71	76	81	32
17	32	37	42	47	52	57	62	67	72	77	82	34
18	33	38	43	48	53	58	63	68	73	78	83	36
19	34	39	44	49	54	59	64	69	74	79	84	38
20	35	40	45	50	55	60	65	70	75	80	85	40
21	36	41	46	51	56	61	66	71				43
22	37	42	47	52	57	62	67	72				46
23	38	43	48	53	58	63	68	73				49
24	39	44	49	54	59	64	69	74				52
25	40	45	50	55	60	65	70	75				55

(2) For speeding in excess of the speeds shown on the specific fine schedule the fine shall be not less than sixty dollars ($60) nor more than one hundred dollars ($100).

(3) For any violation shown on the chart for which a specific fine is prescribed, the defendant may elect to pay the fine and court costs to the circuit clerk before the date of his trial or to be tried in the normal manner. Payment of the fine and court costs to the clerk shall be considered as a plea of guilty for all purposes.

(4) If the offense charged shows a speed in excess of the speeds shown on the specific fine schedule the defendant shall appear for trial and may not pay the fine to the clerk before the trial date.

(5)[~~Twelve dollars and fifty cents ($12.50) shall be assessed for violations of KRS 189.390 in addition to the penalties set forth in subsections (1) and (2) of this section. Funds collected pursuant to this subsection shall be deposited in the spinal cord and head injury research trust fund, created pursuant to KRS 211.504, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.502.~~

~~(6) Ten dollars ($10) shall be assessed for violations of KRS 189.390 in addition to the penalties set forth in subsections (1) and (2) and the additional fee established in subsection (3) of this section. Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.475.~~

~~(7)~~] If the offense occurred in a highway work zone, the fine established by subsection (1) or (2) of this section shall be doubled.

(6)[~~(8)~~] All fines collected for speeding in a highway work zone in violation of KRS 189.390 shall be deposited into a separate trust and agency account within the Transportation Cabinet known as the "Highway Work Zone Safety Fund." The highway work zone safety fund shall be used exclusively by the Transportation Cabinet to hire or pay for enhanced law enforcement of traffic laws within highway work zones.

Section 18. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270

shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26)[~~ Any person who violates any of the provisions of KRS 189.125(3), KRS 189.290, KRS 189.300, KRS 189.340, KRS 189.345, KRS 189.370, KRS 189.393, or KRS 189.505, shall, in addition to any other fine imposed by this chapter, pay an additional fee of ten dollars ($10). Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.~~

~~(27)~~] Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27)[~~(28)~~] A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

Section 19. KRS 189A.010 is amended to read as follows:

(1) A person shall not operate or be in physical control of a motor vehicle anywhere in this state:

(a) Having an alcohol concentration of 0.08 or more as measured by a scientifically reliable test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle;

(b) While under the influence of alcohol;

(c) While under the influence of any other substance or combination of substances which impairs one's driving ability;

(d) While under the combined influence of alcohol and any other substance which impairs one's driving ability; or

(e) Having an alcohol concentration of 0.02 or more as measured by a scientifically reliable test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle, if the person is under the age of twenty-one (21).

(2) With the exception of the results of the tests administered pursuant to KRS 189A.103(7), if the sample of the person's blood or breath that is used to determine the alcohol concentration thereof was obtained more than two (2) hours after cessation of operation or physical control of a motor vehicle, the results of the test or tests shall be inadmissible as evidence in a prosecution under subsection (1)(a) or (e) of this section. The results of the test or tests, however, may be admissible in a prosecution under subsection (1)(b) or (d) of this section.

(3) In any prosecution for a violation of subsection (1)(b) or (d) of this section in which the defendant is charged with having operated or been in physical control of a motor vehicle while under the influence of alcohol, the alcohol concentration in the defendant's blood as determined at the time of making analysis of his blood or breath shall give rise to the following

presumptions:

(a) If there was an alcohol concentration of less than 0.05 based upon the definition of alcohol concentration in KRS 189A.005, it shall be presumed that the defendant was not under the influence of alcohol; and

(b) If there was an alcohol concentration of 0.05 or greater but less than 0.08 based upon the definition of alcohol concentration in KRS 189A.005, that fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but that fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant.

The provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the questions of whether the defendant was under the influence of alcohol or other substances, in any prosecution for a violation of subsection (1)(b) or (d) of this section.

(4) The fact that any person charged with violation of subsection (1) of this section is legally entitled to use any substance, including alcohol, shall not constitute a defense against any charge of violation of subsection (1) of this section.

(5) Any person who violates the provisions of paragraph (a), (b), (c), or (d) of subsection (1) of this section shall:

(a) For the first offense within a five (5) year period, be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500), or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days, or both. Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than forty-eight (48) hours nor more than thirty (30) days in lieu of fine or imprisonment, or both. If any of the aggravating circumstances listed in subsection (11) of this section are present while the person was operating or in physical control of a motor vehicle, the mandatory minimum term of imprisonment shall be four (4) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release.

(b) For the second offense within a five (5) year period, be fined not less than three hundred fifty dollars ($350) nor more than five hundred dollars ($500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be fourteen (14) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release.

(c) For a third offense within a five (5) year period, be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be sixty (60) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release.

(d) For a fourth or subsequent offense within a five (5) year period, be guilty of a Class D felony. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be two hundred forty (240) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of release.

(e) For purposes of this subsection, prior offenses shall include all convictions in this state, and any other state or jurisdiction, for operating or being in control of a motor vehicle while under the influence of alcohol or other substances that impair one's driving ability, or any combination of alcohol and such substances, or while having an unlawful alcohol concentration, or driving while intoxicated, but shall not include convictions for violating subsection (1)(e) of this section. A court shall receive as proof of a prior conviction a copy of that conviction, certified by the court ordering the conviction.

(6) Any person who violates the provisions of subsection (1)(e) of this section shall have his driving privilege or operator's license suspended by the court for a period of no less than thirty (30) days but no longer than six (6) months, and the person shall be fined no less than one hundred dollars ($100) and no more than five hundred dollars ($500), or sentenced to twenty (20) hours of community service in lieu of a fine. A person subject to the penalties of this subsection shall not be subject to the penalties established in subsection (5) of this section or any other penalty established pursuant to KRS Chapter 189A, except those established in KRS 189A.040(1).

(7) If the person is under the age of twenty-one (21) and there was an alcohol concentration of 0.08 or greater based on the definition of alcohol concentration in KRS 189A.005, the person shall be subject to the penalties established pursuant to subsection (5) of this section.

(8) For a second or third offense within a five (5) year period, the minimum sentence of imprisonment or community labor shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a fourth or subsequent offense under this section, the minimum term of imprisonment shall be one hundred twenty (120) days, and this term shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a second

or subsequent offense, at least forty-eight (48) hours of the mandatory sentence shall be served consecutively.

(9) When sentencing persons under subsection (5)(a) of this section, at least one (1) of the penalties shall be assessed and that penalty shall not be suspended, probated, or subject to conditional discharge or other form of early release.

(10) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(11) For purposes of this section, aggravating circumstances are any one (1) or more of the following:

(a) Operating a motor vehicle in excess of thirty (30) miles per hour above the speed limit;

(b) Operating a motor vehicle in the wrong direction on a limited access highway;

(c) Operating a motor vehicle that causes an accident resulting in death or serious physical injury as defined in KRS 500.080;

(d) Operating a motor vehicle while the alcohol concentration in the operator's blood or breath is 0.18 or more as measured by a test or tests of a sample of the operator's blood or breath taken within two (2) hours of cessation of operation of the motor vehicle;

(e) Refusing to submit to any test or tests of one's blood, breath, or urine requested by an officer having reasonable grounds to believe the person was operating or in physical control of a motor vehicle in violation of subsection (1) of this section; and

(f) Operating a motor vehicle that is transporting a passenger under the age of twelve (12) years old.

[~~(12) Any person who violates the provisions of subsection (1) of this section shall be assessed twenty dollars ($20) in addition to the fines imposed by subsections (5) and (6) of this section. Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.~~]

Section 20. KRS 211.476 is amended to read as follows:

(1) The traumatic brain injury trust fund is created as a separate revolving fund.[~~ The trust fund shall consist of moneys collected from an additional assessment of twenty dollars ($20) imposed on driving under the influence offenses, an additional assessment of ten dollars ($10) imposed against selected speeding offenses, and an additional fine of ten dollars ($10) imposed against selected moving violations.~~]

(2) The trust fund may receive the proceeds from grants, contributions, appropriations, and any other moneys that may be made available for the purposes of the trust fund.

(3) Expenditures from the trust fund on behalf of the medical registry created under KRS 211.474 shall not exceed one hundred twenty-five thousand dollars ($125,000) for any fiscal year.

(4) Funds unexpended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.

(5) Any interest earnings of the trust fund shall become a part of the trust fund and shall not lapse to the general fund.

Section 21. KRS 211.500 is amended to read as follows:

(1) The Kentucky Spinal Cord and Head Injury Research Board is hereby created for the purpose of administering the spinal cord and head injury research trust fund created pursuant to KRS 211.504. The board shall be composed of seven (7) members appointed by the Governor as follows:

(a) Two (2) members representing the University of Kentucky College of Medicine;

(b) Two (2) members representing the University of Louisville School of Medicine;

(c) One (1) member who has a spinal cord or head injury or who has a family member with a spinal cord or head injury;

(d) One (1) member representing the Kentucky Medical Association; and

(e) One (1) at-large member.

(2) Board members shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred in the performance of duties incident to the provisions of KRS 211.500 to 211.504.

(3) The terms of board members shall be four (4) years, except that of the members appointed after July 15, 1998, two (2) members appointed to fill the terms ending on June 30, 1999, shall serve until January 31, 2000; two (2) members appointed to fill the terms expiring on June 30, 2000, shall serve until January 31, 2001; two (2) members appointed to fill the terms expiring on June 30, 2001, shall serve until January 31, 2002; and one (1) member appointed to fill the term expiring June 30, 2002, shall serve until January 31, 2003; and subsequent appointments shall be for four (4) year terms ending on January 31.

(4) At the end of a term, a member shall continue to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed and qualifies.[~~ A member may serve two (2) or more consecutive full four (4) year terms at the discretion of the Governor.~~]

(5) A majority of the full authorized membership of the board shall constitute a quorum.

(6) The board shall elect, by a majority vote, a chairman who shall be the presiding officer of the board, preside at all meetings, and coordinate the functions and activities of the board. The chairman shall be elected or reelected for each calendar year. The board shall have such other organization as deemed necessary and approved by the board.

(7) Meetings of the board shall be held at least twice a year but may be held more frequently as deemed necessary, subject to call by the chairman or by request of a majority of the board members. Board meetings shall concern, among other things, policy matters relating to spinal cord and head injury research projects and programs, research progress reports, authorization of projects and financial plans, and other matters necessary to carry out the intent of KRS 211.500 to 211.504.

(8) No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.

(9) The board shall be attached to the Cabinet for Health Services for administrative purposes.

Section 22. KRS 211.504 is amended to read as follows:

(1) The revenues received from the ***disbursements provided under paragraph (c) of subsection (2) of Section 9 of this Act***~~[additional penalties imposed by KRS 189.394(5) and the penalties imposed for violations of KRS 189.125]~~ shall be credited to the spinal cord and head injury research trust fund which is hereby created.

(2) Federal funds or other funds which may be made available to supplement or match state funds for spinal cord and head injury research programs provided for by KRS 211.500 to 211.504 shall be credited to the trust fund created in subsection (1) of this section.

(3) Funds deposited to the credit of the spinal cord and head injury research trust fund shall be used to finance the spinal cord and head injury research programs authorized under the provisions of KRS 211.500 to 211.504 and for the operation of the Kentucky Spinal Cord and Head Injury Research Board. Funds for research shall only be used for spinal cord and head injury research undertaken by the University of Kentucky or University of Louisville.

(4) Funds unexpended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year or biennium, but any surplus shall be included in the budget considered and approved by the board for the ensuing period.

Section 23. KRS 346.040 is amended to read as follows:

The board shall have the following powers and duties:

(1) To establish and maintain necessary offices within this state, appoint employees and agents as necessary, and prescribe their duties and compensation.

(2) To promulgate, amend, and repeal suitable administrative regulations to carry out the provisions and purposes of this chapter, including administrative regulations for the approval of attorney's fees for representation before the board or upon judicial review as provided for in KRS 346.110.

(3) To hear and determine all matters relating to claims for compensation, and the power to reinvestigate or reopen claims without regard to statutes of limitations.

(4) To request from prosecuting attorneys and law enforcement officers investigations and data to enable the board to determine whether, and the extent to which, a claimant qualifies for compensation. The statute providing confidentiality for juvenile session of District Court records does not apply to proceedings under this chapter.

(5) To hold hearings in accordance with the provisions of KRS Chapter 13B. The powers provided in this subsection may be delegated by the board to any member or employee thereof. If necessary to carry out any of its powers and duties, the board may petition any Circuit Court for an order.

(6) To take or cause to be taken affidavits or depositions within or without the state.

(7) To make available for public inspection all board decisions and opinions, administrative regulations, written statements of policy, and interpretations formulated, promulgated, or used by it in discharging its functions.

(8) To publicize widely the availability of reparations and information regarding the claims therefor.

(9) To make an annual report, by January 1 of each year, of its activities for the preceding fiscal year to the Office of the State Budget Director and to the Interim Joint Committee on Appropriations and Revenue. Each such report shall set forth a complete operating and financial statement covering its operations during the year.

Section 24. KRS 346.185 is amended to read as follows:

(1) There is established in the State Treasury the "Crime Victims' Compensation Fund," hereinafter referred to as the "fund," to be administered by the Crime Victims' Compensation Board.~~[In all cases in which defendants plead or are found guilty of a crime as defined in KRS 500.080(2), there shall be imposed as an additional cost the sum of twenty dollars ($20). This sum shall not be suspended or probated. This sum shall be collected in its entirety and shall not be prorated. The clerk of the court shall collect the cost and forward it monthly to the State Treasurer, to be deposited in the fund.]~~ Nothing herein shall be construed to limit the power of the court to order additional forms of restitution including public or charitable work or reparation to the victim, to the fund, or otherwise as authorized by law.

(2) The fund shall consist of moneys from the following: appropriations by the General Assembly; the federal government; ***disbursements provided under paragraph (g) of subsection (2) of Section 9 of this Act;***~~[payments by the defendant~~

~~pursuant to subsection (1) of this section~~] and any other public or private source. Any unexpended balance remaining in the fund at the end of the biennium shall not lapse and be transferred to the general fund, but shall remain in the crime victims' compensation fund. Any funds not utilized by the board shall be used to provide assistance to programs for victims and the board shall allocate such funds to any agency providing services to victims. In the event there are insufficient funds in the fund to pay all claims in full, all claims shall be paid at seventy percent (70%). If there are no moneys in the fund, then no claim shall be paid until moneys have again accumulated. In addition to payment of claims, moneys in the fund shall be used to pay all the necessary and proper expenses of the Crime Victims' Compensation Board.

[~~(3) When judgment is entered against a defendant as provided in this section and each sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the State of Kentucky to such defendant an amount equal to the unpaid amount of the judgment. The amount shall be paid to the crime victims' compensation fund and satisfaction of the judgment shall be entered on the court record. Under no circumstances shall the general revenue fund be used to reimburse court costs or pay for judgment.~~]

Section 25. KRS 431.100 is amended to read as follows:

(1) ***When a money judgment is entered against a defendant in a criminal proceeding and each sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the Commonwealth of Kentucky to such defendant an amount equal to the unpaid amount of the judgment. Under no circumstances shall the general fund be used to reimburse court costs or pay for judgment.***

(2) Except as provided in this section, all fines and forfeitures imposed by law or ordinance shall inure to and vest in the Commonwealth.

(3)[~~(2)~~] Fines and forfeitures imposed by law for violation of KRS 222.202 or ordinances relating to similar subject matter shall inure to and vest in the Commonwealth and shall be placed in a special fund in the State Treasury, which shall not lapse, and which, effective July 1, 1987, shall be used solely by the Cabinet for Health Services for the provision of treatment and counseling programs for alcoholics.

[~~(3) Fines for violation of KRS 512.070 shall be transferred by the circuit clerk to the county treasurer for inclusion in the general fund of the county in which the offense occurs.~~]

(4)[~~ Court costs assessed pursuant to KRS 610.360 shall be placed in a trust and agency account in the State Treasury which shall be subject to appropriation by the General Assembly for the purposes of providing services and programs and for matching funds for grants for providing services and programs to juvenile public offenders.~~

~~(5)~~] The court shall not order a fine, forfeiture, service fee, cost, or any other money due the ***Commonwealth***[~~state~~] or any other public officer paid to any person or organization other than one specifically required by ***the Kentucky Revised Statutes,***[~~statute~~] nor shall a court suspend payment of a fine, forfeiture, service fee, cost, or any other money due the ***Commonwealth***[~~state~~] if the defendant makes a payment to another person or organization***, unless so authorized by the court and the Kentucky Revised Statutes.***

(5) When, as authorized in the Kentucky Revised Statutes, a court does order a fine, forfeiture, service fee, cost, or any other monetary penalty to be paid to a person other than the circuit clerk, notice of this order will be served on the defendant and a copy of the order will be delivered to the person. Such an order constitutes a judgment of the court and carries with it all lawful means of enforcement and collection.

Section 26. KRS 439.179 is amended to read as follows:

(1) Any person sentenced to a jail for a misdemeanor, nonpayment of a fine or forfeiture, or contempt of court, may be granted the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes:

   (a) Seeking employment; or

   (b) Working at his employment; or

   (c) Conducting his own business or other self-employment occupation including, in the case of a woman, housekeeping and attending the needs of her family; or

   (d) Attendance at an educational institution; or

   (e) Medical treatment.

(2) Unless the privilege is expressly granted by the court, the prisoner shall be sentenced to ordinary confinement. The prisoner may petition the sentencing court for the privilege at the time of sentence or thereafter, and, in the discretion of the sentencing court, may renew his petition. The sentencing court may withdraw the privilege at any time by order entered with or without notice. The jailer shall advise the court in establishing criteria in determining a prisoner's eligibility for work release.

(3) The jailer shall notify the Department for Employment Services, Cabinet for Workforce Development which shall endeavor to secure employment for unemployed prisoners under this section. If a prisoner is employed for wages or salary, they shall, by wage assignment, be turned over to the District Court which shall deposit the same in a trust checking account and shall keep a ledger showing the status of the account of each prisoner. The wages or salary shall not be subject to garnishment of either the employer or the District Court during the prisoner's term, and shall be disbursed only as provided in this section. For tax purposes they shall be the income of the prisoner.

(4) Every prisoner gainfully employed shall be liable for the cost of his board in the jail, for an amount up to twenty-five percent (25%) of the prisoner's gross daily wages, not to exceed forty dollars ($40) per day, but not less than twelve dollars ($12) per day, established by the fiscal court of a county or the urban-county council if an urban-county government. If he defaults, his privilege under this section shall be automatically forfeited. All moneys shall be ***paid directly to the jailer***~~[collected by the District Court]~~ and paid to the county treasury for use on the jail as provided in KRS 441.206. The fiscal court of a county or the urban-county council if an urban-county government may, by ordinance, provide that the county furnish or pay for the transportation of prisoners employed under this section to and from the place of employment and require that the costs be repaid by the prisoner.

(5) ***The sentencing court may order the defendant's employer to deduct from the defendant's wages or salary payments for the following purposes***~~[Unless otherwise ordered by the sentencing court, the wages or salaries of employed prisoners shall be disbursed by the District Court on a monthly basis for the following purposes and in the order stated]~~:

- (a) The board of the prisoner and transportation costs incurred by the county;
- (b) Support of the prisoner's dependents, if any;
- (c) Payment, either in full or ratably, of the prisoner's obligations acknowledged by him in writing or which have been reduced to judgment;
- (d) The balance, if any, to the prisoner upon his discharge.

(6) The sentencing court ***shall not direct that any payment authorized under this section be paid through the circuit clerk***~~[may direct that its functions under subsections (3) or (5) or both be performed by any bonded public official. The order shall remain in force until rescinded by the District Court]~~.

(7) The Department of Corrections shall, at the request of the District Judge, investigate and report on the amount necessary for the support of the prisoner's dependents, and periodically review the prisoner's progress while on leave from the jail and report its findings to the District Judge.

(8) The jailer may refuse to permit the prisoner to exercise his privilege to leave the jail as provided in subsection (1) for any breach of discipline or other violation of jail regulations for a period not to exceed five (5) days.

(9) In counties containing an urban-county form of government, the duties, responsibilities, and obligations vested herein in the Department of Corrections shall be performed by the adult misdemeanant probation and work release agency of the urban-county government.

Section 27. KRS 439.575 is amended to read as follows:

(1) There is hereby created a program for prerelease probation of inmates confined in correctional facilities under the jurisdiction of or under contract to the Department of Corrections.

(2) Any inmate who is in a prerelease program or eligible for a prerelease program as specified by administrative regulations of the Department of Corrections may apply to the sentencing court for prerelease probation.

(3) The court, upon favorable recommendation of the Department of Corrections, may place the inmate on probation under those terms and conditions the court deems necessary, which may include but not need to be limited to those specified in KRS 533.030.

(4) In particular, the court may require that an inmate placed on prerelease probation remain in a half-way house approved by the Department of Corrections and that the probationer pay the cost of his or her lodging in the half-way house and the costs of probation supervision in accordance with applicable statutes for probation supervision and persons granted work release from jail. ***Costs for lodging in a half-way house or other facility approved, but not operated, by the Department of Corrections shall be paid by the defendant directly to the half-way house or other facility at the rate specified by court order or by the Department of Corrections.***

(5) An inmate placed on prerelease probation shall no longer be considered as an inmate of the Department of Corrections but shall be considered as a defendant placed on probation, subject to supervision by the Division of Probation and Parole, or other agency approved by the court, and the orders of the court.

(6) A person placed on prerelease probation by the court who violates the conditions of his or her probation may be dealt with by the court in the same manner as any other person who violates the conditions of probation.

(7) The period of probation under this section shall not exceed the maximum expiration date of the inmate applying for the probation.

Section 28. KRS 441.685 is amended to read as follows:

(1) There is created and established a Kentucky Local Correctional Facilities Construction Authority fund which shall consist of the following:

- (a) Rentals received under leases made by the authority pursuant to KRS 441.625 to 441.695;
- (b) Appropriations by the General Assembly;
- (c) Contributions, grants and gifts from any source, both public and private, which may be used by the authority for any project or projects;
- (d) ***Disbursements***~~[Moneys collected and deposited in the State Treasury as]~~ provided ***under paragraph (b) of***

subsection (2) of Section 9 of this Act[~~by KRS 24A.175(6)~~]; and

(e) All interest earned on investments made by the state from moneys deposited in this fund.

(2) Moneys accruing to this fund shall be deposited by the State Treasurer in the fund's trust and agency account, and shall be invested by the state for the benefit and use of the authority, pending their application to the expenses of the authority and to payments of interest and principal of bonds, notes and other obligations of the authority. Notwithstanding the provisions of the foregoing sentence, at such time or times as the moneys contained in the fund are sufficient to pay the principal on all bonds, notes and obligations of the authority that would become due in the next ensuing twelve (12) month period, the authority may use moneys in the fund in excess thereof for such purposes as provided for in KRS 441.625 to 441.695.

Section 29. KRS 441.695 is amended to read as follows:

By January 1 each year the authority shall make an annual report of its activities for the preceding fiscal year to the ***Office of the State Budget Director***[~~Governor~~] and to the ***Interim Joint Committee on Appropriations and Revenue***[~~General Assembly~~]. Each such report shall set forth a complete operating and financial statement covering its operations during the year. The authority shall provide for an audit of its books and accounts to be made within ninety (90) days after the close of each fiscal year by certified public accountants and the cost thereof may be treated as a part of the cost of construction of the project. Such audits shall be public records within the meaning of KRS 61.870 to 61.884.

Section 30. KRS 532.032 is amended to read as follows:

(1) Restitution to a named victim, if there is a named victim, shall be ordered in a manner consistent, insofar as possible, with the provisions of this section and KRS 439.563, 532.033, 533.020, and 533.030 in addition to any other part of the penalty for any offense under this chapter. The provisions of this section shall not be subject to suspension or nonimposition.

(2) If pretrial diversion is granted, restitution shall be a part of the diversion agreement.

(3) If probation, shock probation, conditional discharge, or other alternative sentence is granted, restitution shall be a condition of the sentence.

(4) If a person is sentenced to incarceration and paroled, restitution shall be made a condition of parole.

(5) Restitution payments ordered under this section shall be paid by the defendant to the clerk or a court-authorized program run by the county attorney or the Commonwealth's attorney of the county.

Section 31. KRS 532.160 is amended to read as follows:

(1) ***If a convicted person is unable to pay all court costs, fees, fines, and other monetary penalties at the time of sentencing, then*** the sentencing court may***, consistent with Sections 1, 4, and 38 of this Act and KRS 534.060,*** issue a criminal garnishment order for all fines under KRS Chapter 534 or KRS 346.185 and for court costs, restitution, and reimbursement charges in this chapter.

(2) A criminal garnishment applies to any of the following:

(a) A convicted person's earnings as defined in KRS 427.005;

(b) Indebtedness that is owed to a convicted person by a garnishee for amounts that are not earnings;

(c) Money that is held by a garnishee on behalf of a convicted person;

(d) The convicted person's personal property that is in the possession of a garnishee; or

(e) If the garnishee is a corporation, shares or securities of a corporation or a proprietary interest in a corporation that belongs to a convicted person.

(3) The debt associated with a criminal garnishment shall constitute a charge against the estate of any decedent owing moneys under this chapter.

(4) The sentencing court shall combine all fines, court costs, restitution, and reimbursement charges in a single order of garnishment.

(5) The sentencing court shall require payment of restitution to the victim of the offense before payments of any moneys to the government or a government agency.

(6) The court shall order payments made under this section to be paid by the defendant directly to the person or organization specified by written order of the court. The court shall not order payments of an order of criminal garnishment to be made through the circuit clerk, except for those payments due from a person under the supervision of the Department of Corrections.

Section 32. KRS 532.220 is amended to read as follows:

The conditions of home incarceration shall include the following:

(1) The home incarceree shall be confined to his home at all times except when:

(a) Working at approved employment or traveling directly to and from such employment;

(b) Seeking employment;

(c) Undergoing available medical, psychiatric, or mental health treatment or approved counseling and after care programs;

(d) Attending an approved educational institution or program;

(e) Attending a regularly scheduled religious service at a place of worship; and

(f) Participating in an approved community work service program;

(2) Violation of subsection (1) of this section may subject the home incarceree to prosecution under KRS 520.030 (escape);

(3) The home incarceree shall conform to a schedule prepared by a designated officer of the supervising authority specifically setting forth the times when he may be absent from the home and the locations where he may be during those times;

(4) The home incarceree shall not commit another offense during the period of time for which he is subject to the conditions of home incarceration;

(5) The home incarceree shall not change the place of home incarceration or the schedule without prior approval of the supervising authority;

(6) The home incarceree shall maintain a telephone or other approved monitoring device in the home or on his person at all times;

(7) Any other reasonable conditions set by the court or the supervising authority including:

(a) Restitution under KRS 533.030;

(b) Supervision fees under KRS 439.315; and

(c) Any of the conditions imposed on persons on probation or conditional discharge under KRS 533.030(2); and

(8) A written and notarized consent agreement shall be filed with the court by every adult who will share the offender's home during the term of home incarceration.

(9) Any supervision fee or other monetary condition, except restitution, shall be paid by the defendant directly to the person or organization specified by the court in a written order, except that any such fees or monetary conditions owed to the Department of Corrections shall be paid through the circuit clerk.

Section 33. KRS 532.352 is amended to read as follows:

(1) The sentencing court may order a person who is sentenced to a term of incarceration for any nonstatus juvenile offense, moving traffic violation, criminal violation, misdemeanor, or Class D felony offense to reimburse the state or local government for the costs of his incarceration. The reimbursements paid under this subsection shall be credited to the local government sinking fund.

(2) The sentencing court shall determine the amount of incarceration costs to be paid based on the following factors:

(a) The actual per diem, per person, cost of incarceration;

(b) The cost of medical services provided to a prisoner less any copayment paid by the prisoner; and

(c) The prisoner's ability to pay all or part of his incarceration costs.

(3) Reimbursement of incarceration costs shall be paid by the defendant directly to the jailer in the amount specified by written order of the court. Incarceration costs owed to the Department of Corrections shall be paid through the circuit clerk.

Section 34. KRS 532.356 is amended to read as follows:

(1) Upon a person's conviction and sentencing for any nonstatus juvenile offense, moving traffic violation, criminal violation, misdemeanor, or Class D felony offense, the court shall impose the following sanctions in addition to any imprisonment, fine, court cost, or community service:

(a) Reimbursement to the state or local government for the person's incarceration, determined by the per person, per diem, expenses of each prisoner incarcerated by the respective local government, times the number of days he has spent or shall spend in confinement, plus any medical services received by the prisoner, less copayments paid by the prisoner. The convicted person's ability to pay all or part of the reimbursement shall be considered by the sentencing court in imposing the sanction; and

(b) Restitution to the crime victim as set out in KRS 439.563, 532.032, and 532.033.

(2) In addition to any other penalty allowed by law, a court may declare the defendant ineligible to operate a motor vehicle for a period of up to sixty (60) days where the defendant is being sentenced for a conviction of KRS 514.030 involving the theft of gasoline or special fuels from a retail establishment and the defendant has been previously convicted of KRS 514.030 for a theft of gasoline or special fuels from a retail establishment. A retail establishment may post a sign at the location where the fuel is dispensed apprising the public of the sanctions available under this subsection.

(3) Sanctions imposed by the sentencing court shall become a judgment of the court. ***Reimbursement of incarceration costs shall be paid by the defendant directly to the jailer in the amount specified by written order of the court. Incarceration costs owed to the Department of Corrections shall be paid through the circuit clerk.***

Section 35. KRS 533.010 is amended to read as follows:

(1) Any person who has been convicted of a crime and who has not been sentenced to death may be sentenced to probation, probation with an alternative sentencing plan, or conditional discharge as provided in this chapter.

(2) Before imposition of a sentence of imprisonment, the court shall consider probation, probation with an alternative sentencing plan, or conditional discharge. Unless the defendant is a violent felon as defined in KRS 439.3401 or a statute prohibits probation, shock probation, or conditional discharge, after due consideration of the nature and circumstances of the crime and the history, character, and condition of the defendant, probation or conditional discharge shall be granted, unless the court is of the opinion that imprisonment is necessary for protection of the public because:

  (a) There is substantial risk that during a period of probation or conditional discharge the defendant will commit another crime;

  (b) The defendant is in need of correctional treatment that can be provided most effectively by his commitment to a correctional institution; or

  (c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.

(3) In the event the court determines that probation is not appropriate after due consideration of the nature and circumstances of the crime, and the history, character, and condition of the defendant, probation with an alternative sentencing plan shall be granted unless the court is of the opinion that imprisonment is necessary for the protection of the public because:

  (a) There is a likelihood that during a period of probation with an alternative sentencing plan or conditional discharge the defendant will commit a Class D or Class C felony or a substantial risk that the defendant will commit a Class B or Class A felony;

  (b) The defendant is in need of correctional treatment that can be provided most effectively by commitment to a correctional institution; or

  (c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.

(4) The court shall not determine that there is a likelihood that the defendant will commit a Class C or Class D felony based upon the fact that:

  (a) The defendant has never been convicted of, pled guilty to, or entered an Alford plea to a felony offense;

  (b) If convicted of, having pled guilty to, or entered an Alford plea to a felony offense, the defendant successfully completed probation more than ten (10) years immediately prior to the date of the commission of the felony for which the defendant is now being sentenced and has had no intervening convictions, pleas of guilty, or Alford pleas to any criminal offense during that period; or

  (c) The defendant has been released from incarceration for the commission of a felony offense more than ten (10) years immediately prior to the date of the commission of the felony for which the defendant is now being sentenced and has had no intervening convictions, pleas of guilty, or Alford pleas to any criminal offense during that period.

(5) In making a determination under subsection (4) of this section, the court may determine that the greater weight of the evidence indicates that there is a likelihood that the defendant will commit a Class C or Class D felony.

(6) Upon initial sentencing of a defendant or upon modification or revocation of probation, when the court deems it in the best interest of the public and the defendant, the court may order probation with the defendant to serve one (1) of the following alternative sentences:

  (a) To a halfway house for no more than twelve (12) months;

  (b) To home incarceration with or without work release for no more than twelve (12) months;

  (c) To jail for a period not to exceed twelve (12) months with or without work release, community service and other programs as required by the court;

  (d) To a residential treatment program for the abuse of alcohol or controlled substances; or

  (e) To any other specified counseling program, rehabilitation or treatment program, or facility.

(7) If during the term of the alternative sentence the defendant fails to adhere to and complete the conditions of the alternative sentence, the court may modify the terms of the alternative sentence or may modify or revoke probation and alternative sentence and commit the defendant to an institution.

(8) In addition to those conditions that the court may impose, the conditions of alternative sentence shall include the following and, if the court determines that the defendant cannot comply with them, then they shall not be made available:

  (a) A defendant sentenced to a halfway house shall:

    1. Be working or pursuing his or her education or be enrolled in a full-time treatment program;

    2. Pay restitution during the term of probation; and

    3. Have no contact with the victim of the defendant's crime;

  (b) A defendant sentenced to home incarceration shall:

    1. Be employed by another person or self-employed at the time of sentencing to home incarceration and continue the employment throughout the period of home incarceration, unless the court determines that there is a compelling reason to allow home incarceration while the defendant is unemployed;

    2. Pay restitution during the term of home incarceration;

3. Enter a treatment program, if appropriate;
4. Pay all or some portion of the cost of home incarceration as determined by the court;
5. Comply with other conditions as specified; and
6. Have no contact with the victim of the defendant's crime;

(c) A defendant sentenced to jail with community service shall:
1. Pay restitution during all or some part of the defendant's term of probation; and
2. Have no contact with the victim of the defendant's crime; or

(d) A defendant sentenced to a residential treatment program for drug and alcohol abuse shall:
1. Undergo mandatory drug screening during term of probation;
2. Be subject to active, supervised probation for a term of five (5) years;
3. Undergo aftercare as required by the treatment program;
4. Pay restitution during the term of probation; and
5. Have no contact with the victim of the defendant's crime.

(9) When the court deems it in the best interest of the defendant and the public, the court may order the person to work at community service related projects under the terms and conditions specified in KRS 533.070. Work at community service related projects shall be considered as a form of conditional discharge.

(10) Probation with alternative sentence shall not be available as set out in KRS 532.045 and 533.060, except as provided in KRS 533.030***(5)***[~~(6)~~].

(11) The court may utilize a community corrections program authorized or funded under KRS Chapter 196 to provide services to any person released under this section.

(12) When the court deems it in the best interest of the defendant and the public, the court may order the defendant to placement for probation monitoring by a private agency. The private agency shall report to the court on the defendant's compliance with his terms of probation or conditional discharge. The defendant shall be responsible for any reasonable charges which the private agency charges.

(13) The jailer in each county incarcerating Class D felons may deny work release privileges to any defendant for violating standards of discipline or other jail regulations. The jailer shall report the action taken and the details of the violation on which the action was based to the court of jurisdiction within five (5) days of the violation.

(14) The Department of Corrections shall, by administrative regulation, develop written criteria for work release privileges granted under this section.

(15) ***Reimbursement of incarceration costs shall be paid directly to the jailer in the amount specified by written order of the court. Incarceration costs owed to the Department of Corrections shall be paid through the circuit clerk.***

(16) The court shall enter into the record written findings of fact and conclusions of law when considering implementation of any sentence under this section.

Section 36. KRS 533.020 is amended to read as follows:

(1) When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court shall place him on probation if he is in need of the supervision, guidance, assistance, or direction that the probation service can provide. Conditions of probation shall be imposed as provided in KRS 533.030, but the court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of probation. ***When setting conditions under this subsection, the court shall not order any defendant to pay incarceration costs or any other cost permitted to be ordered under Section 35 of this Act, or other statute, except restitution and any costs owed to the Department of Corrections, through the circuit clerk.***

(2) When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court may sentence him to probation with an alternative sentence if it is of the opinion that the defendant should conduct himself according to conditions determined by the court and that probationary supervision alone is insufficient. The court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the alternative sentence.

(3) When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court may sentence him to conditional discharge if it is of the opinion that the defendant should conduct himself according to conditions determined by the court but that probationary supervision is inappropriate. Conditions of conditional discharge shall be imposed as provided in KRS 533.030, but the court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of conditional discharge.

(4) The period of probation, probation with an alternative sentence, or conditional discharge shall be fixed by the court and at any time may be extended or shortened by duly entered court order. Such period, with extensions thereof, shall not exceed

five (5) years, or the time necessary to complete restitution, whichever is longer, upon conviction of a felony nor two (2) years, or the time necessary to complete restitution, whichever is longer, upon conviction of a misdemeanor. Upon completion of the probationary period, probation with an alternative sentence, or the period of conditional discharge, the defendant shall be deemed finally discharged, provided no warrant issued by the court is pending against him, and probation, probation with an alternative sentence, or conditional discharge has not been revoked.

(5) Notwithstanding the fact that a sentence to probation, probation with an alternative sentence, or conditional discharge can subsequently be modified or revoked, a judgment which includes such a sentence shall constitute a final judgment for purposes of appeal.

Section 37. KRS 533.030 is amended to read as follows:

(1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.

(2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:

(a) Avoid injurious or vicious habits;

(b) Avoid persons or places of disreputable or harmful character;

(c) Work faithfully at suitable employment as far as possible;

(d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;

(e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;

(f) Support his dependents and meet other family responsibilities;

(g) Pay the cost of the proceeding as set by the court;

(h) Remain within a specified area;

(i) Report to the probation officer as directed;

(j) Permit the probation officer to visit him at his home or elsewhere;

(k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment; and

(l) [~~If the defendant's record indicates a controlled substance or alcohol problem,~~]Submit to periodic testing for ***the*** use of controlled substances or alcohol***, if the defendant's record indicates a controlled substance or alcohol problem,*** and ***to*** pay a reasonable fee, ***as determined by the court, which fee shall*** not[~~ to~~] exceed the actual cost of the test and analysis ***and shall***[~~, as determined by the court, said fee to~~] be ***paid directly***[~~collected by the circuit clerk, held in an agency account, and disbursed, on court order, solely~~] to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis***, as specified by written order of the court,*** performed under this subsection. For good cause shown, the testing fee may be waived by the court.

(3) When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for Health Services, the Crime Victims Compensation Board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars ($100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two (2) amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then-prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work as specified in KRS 533.070. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employee for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:

(a) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;

(b) The circuit clerk shall assess an additional fee of five percent (5%) to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall inure to a trust and agency account which shall not lapse and which shall be used to hire additional deputy clerks and office personnel or increase deputy clerk or office personnel salaries, or combination thereof;

(c) When a defendant fails to make restitution ordered to be paid through the circuit clerk ***or a court-authorized program run by the county attorney or the Commonwealth's attorney***, the circuit clerk ***or court-authorized program*** shall notify the court; and

(d) An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out-of-pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.

(4) ***When requiring fees for controlled substances or alcohol tests, or other fees and payments authorized by this section or other statute, except restitution, to be paid by the defendant, the court shall not order the payments to be paid through the circuit clerk***[~~In addition to any other terms and conditions imposed under this section, the court may require the probationer, as a condition of his probation, to make one (1) payment to a crime stoppers organization in an amount not to exceed the amount of the reward paid by a crime stoppers organization, as defined by KRS 431.570, relative to the probationer.~~

~~(5) In addition to any other terms and conditions imposed under this section, the court may require the probationer, as a condition of probation or conditional discharge of a sentence of detention or imprisonment for a drug or alcohol related offense, to make one (1) payment either to Drug Abuse Resistance Education (D.A.R.E.) or to any treatment or prevention program for drug or alcohol abuse that a local government administers, refers individuals to, or contracts to administer, in an amount not to exceed the amount of any fine which also could have been imposed for the offense~~].

(5)[~~(6)~~] When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.

(6)[~~(7)~~] When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail or to a period of home incarceration at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement or home incarceration pursuant to this provision shall not exceed twelve (12) months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in confinement or home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment. Any prohibitions against probation, shock probation, or conditional discharge under KRS 533.060(2) or 532.045 shall not apply to persons convicted of a misdemeanor or Class D felony and sentenced to a period of confinement or home incarceration under this section.

Section 38. KRS 534.020 is amended to read as follows:

(1) When a defendant is sentenced to pay a fine, the court may provide for payment to be made within a specified period of time or in specified installments. If no such provision is made a part of the sentence, ***then*** the fine shall be payable forthwith.

(2) When a defendant is sentenced to pay a fine, an alternative sentence of imprisonment that is to be served in the event the fine is not paid shall not be imposed at the same time. The response of a court to nonpayment of a fine shall be determined only after the fine has not been paid, and[~~ only~~] as provided in ***Section 4 of this Act or*** KRS 534.060.

Section 39. KRS 534.045 is amended to read as follows:

(1) Pursuant to a conviction of a misdemeanor, including traffic offenses, where a person is sentenced to incarceration in the county jail, the District Court may assess a reimbursement fee to help defray the expenses of the prisoner's room and board. The reimbursement fee shall not exceed twenty-five percent (25%) of the prisoner's gross daily wages or forty dollars ($40) per day, whichever is less. All moneys shall be ***paid directly to the jailer***[~~collected by the District Court and paid to the county, urban-county, or charter county treasury for use on the jail as provided in KRS 441.206~~].

(2) In determining whether a reimbursement fee as described in subsection (1) of this section is to be assessed, and in establishing the amount of the fee, the court shall consider evidence relevant to the prisoner's ability to pay the fee but shall not consider as evidence the following:

(a) Joint ownership, if any, that the prisoner may have in real property;

(b) Joint ownership, if any, that the prisoner may have in any assets, earnings, or other sources of income; and

(c) The income, assets, earnings, or other property, both real and personal, that might be owned by the prisoner's spouse or family.

(3) After considering all relevant evidence to the issue of the prisoner's ability to pay, the court shall enter as part of its judgment the amount of the reimbursement fee, if any, that shall be paid by the prisoner during his period of incarceration in the county jail. The fee shall bear a reasonable relationship to the person's income. Upon petition by the prisoner affected by the order, the amount may be modified to reflect any changes in the financial status of the prisoner. In any appeal that might be taken from the conviction, the amount of the reimbursement fee may be challenged.

(4) If the person sentenced to jail is released in accordance with the provisions of KRS 439.179 and is subject to the provisions of KRS 439.179(4), the payment of the reimbursement fee shall be suspended so long as the person is gainfully

employed.

(5) When imposing any payment authorized by this section, the court shall order the defendant to make the payment to the named officer, person, or organization. The court shall not order any payment authorized by this section to be made through the circuit clerk.

Section 40. KRS 635.085 is amended to read as follows:

(1) In lieu of commitment to the Department of Juvenile Justice, if a child is adjudicated a public offender, the court may in its discretion impose a fine. The imposition of a fine for an offense committed by a child shall be based upon a determination that such disposition is in the best interest of the child and to aid in his rehabilitation. Any such order shall include a finding that the child is financially able to pay the fine. Fines shall be levied consistent with the schedule set forth below:

  (a) For a felony, not to exceed five hundred dollars ($500);

  (b) For a misdemeanor, not to exceed two hundred fifty dollars ($250); and

  (c) For a violation, not to exceed one hundred dollars ($100).

(2) When a child is directed by the court to pay a fine, the court may provide for payment to be made within a specified period of time or in specified installments. If such provision is not made a part of the court's disposition, the fine shall be payable immediately. Nothing contained herein shall be construed as limiting the court's inherent contempt powers.

(3) Any public offender detained for failure to comply with the court order shall not be scheduled for a time that would interfere with the educational, occupational, or religious obligations of the child, and shall be in a secure juvenile detention facility or juvenile holding facility. Any portion of a day a child is detained pursuant to the court's exercising its contempt powers shall be deemed as one (1) day for purposes of serving a detention term.

[~~(4) Fines imposed and collected pursuant to this section shall be paid by the circuit clerk to the fund specified in KRS 431.100.~~]

Section 41. The following KRS sections are repealed:

26A.150 Collection and forwarding of crime victim compensation fee.

431.102 Service fee on certain misdemeanor convictions.

Section 42. This Act takes effect August 1, 2002, and all court costs, fees, fines, and other monetary penalties assessed before this date but not collected or paid by this date shall be thereafter dispensed of in accordance with this Act.

Representative Wilkey moved that the House concur in the Senate Committee Substitute to **HB 452**. Agreed

Representative Wilkey moved that **HB 452**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 56, Nays 35**. (See March 27, 2002, Message received on roll call on **HB 452** - Appendix)

HB 452, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 452**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 347, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage for concurrence or non concurrence in Senate Amendment. Agreed.

Representative Thomas moved the adoption of the Senate Floor Amendment No. 1 to **HB 347**.

Representative Stumbo moved that **HB 347** be returned to the Orders of the Day and retain its position. Agreed.

Senate Message

Message received in regard to **HB 507**: The Senate has refused to recede from its Senate Committee Substitute and Senate Committee Amendments No. 1, 2, and 3 to **HB 507** and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee on **HB 507**: Senators Sanders, Williams, Kelly, Roeding, Borders, Tori, Stivers, Leeper, Worley, Turner, and Palmer.

Message received in regard to **HB 658**: The Senate has refused to recede from its Senate Committee Substitute to **HB 658** and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee on **HB 658**: Senators Sanders, Williams, Kelly, Roeding, Borders, Tori, Stivers, Leeper, Worley, Turner, and Palmer. (Time: 4:10 p.m.)

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 52, HB 79, HB 314, HB 438, HB 455, HB 483, HB 484, HB 529, HB 556, HB 644, HB 652, HB 657, HB 671, HB 679, HB 737, HB 829,** and **HJR 122** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:18 p.m.)

Motions, Petitions, and Communications

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 507** and **HB 658**: Representative Moberly, Chair: Representatives Richards, L. Clark, Stumbo, Callahan, Barrows, T. Turner, Brinkman, and Napier.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess until 4:45 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications (Continued)

Conference Committee reports were filed on **HB 507** and **HB 658**.

HB 507 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage for consideration of a conference committee report. Agreed.

Representative Stumbo moved the adoption of the following Conference Committee Report on **HB 507**.

The Conference Committee on **HB 507** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Cannot agree.

Signed: March 27, 2002 - Representatives Moberly, Stumbo, L. Clark, Callahan, Barrows, Napier, Richards, T. Turner, and Brinkman; Senators, Sanders, Williams, Kelly, Roeding, Borders, Tori, Leeper, Worley, Palmer, Turner, and Stivers. The above-named members, in separate votes by house, all concur in the provisions of this report.

The Conference Committee Report on **HB 507** was adopted by voice vote.

The Speaker announced the appointment of the previous appointed members of the Conference Committee to the Free Conference Committee on **HB 507**.

HB 658 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage for consideration of the Conference Committee Report. Agreed.

Representative Stumbo moved the adoption of the following Conference Committee Report on **HB 658**.

The Conference Committee on **HB 658** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Cannot agree.

Signed: March 27, 2002 - Representatives Moberly, Stumbo, L. Clark, Callahan, Barrows, Napier, Richards, Brinkman, and T. Turner; Senators, Sanders, Williams, Kelly, Roeding, Borders, Tori, Leeper, Worley, Palmer, Turner, and Stivers. The above-named members, in separate votes by house, all concur in the provisions of this report.

The Conference Committee Report on **HB 658** was adopted by voice vote.

The Speaker announced the appointment of the previous appointed members of the Conference Committee to the Free Conference Committee on **HB 658**.

Representative Stumbo moved to suspend the rules for the Introduction of Resolutions and Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 267, by Representatives Rasche, S. Lee, Palumbo, Crall, and Damron: A RESOLUTION honoring the 2002 MATHCOUNTS winning team.

HR 268, by Representative Crimm: A RESOLUTION adjourning the House of Representatives in honor of Bob Heleringer, our friend and colleague, upon the occasion of his imminent retirement from the Kentucky General Assembly.

Motions, Petitions, and Communications (Continued)

Representative Napier moved the adoption of the following **Legislative Citation No. 119**.

It is the intention of the Members of the House of Representatives of the Commonwealth of Kentucky to adjourn this Legislative Day in honor of the Kentucky Truck Drivers and to join with Representative Lonnie Napier in recognizing these esteemed individuals for the laudable stewardship and vital contributions they make to the economic vitality of this Commonwealth. Often working under strenuous deadlines, foul weather conditions and dangerous traffic situations, Kentucky truck drivers consistently go above and beyond the call of duty and make extreme personal sacrifices to ensure that stores and enterprises are supplied with the necessary stock to conduct business in an efficient and profitable manner. Inasmuch as Kentucky truck drivers serve as the backbone of industry within this state and play an instrumental role in the livelihood of its citizens and economy, they are afforded the highest regard and extended the sincerest gratitude of this honorable body for the contributions they make to both their professions and this Commonwealth and are hereby extended the highest praise as the House adjourns this Legislative day in their honor. Done in Frankfort, Kentucky, this twenty-seventh day of March, in the year two thousand and two.

Legislative Citation No. 119 was adopted without objection.

Representative Miller moved the adoption of the following **Legislative Citation No. 113**.

The House of Representatives of the Commonwealth of Kentucky hereby offers sincerest congratulations to the members of the Pleasure Ridge Park High School Cheerleading All-Girl Stunt Team for outstanding performance that resulted in this remarkable group of athletes winning National Championship honors at both the World Cheerleading Association National Championships and the Jamfest National competition. Inasmuch as the members of this exceptional cheerleading squad, under the astute tutelage of coaches Tabitha Spruill and Missy Pfister, have demonstrated remarkable talent and dedication in this worthwhile endeavor and, as a result, have brought great honor to both school and community, the members of this distinguished body are delighted to join Representative Charles Miller in applauding the achievements of the Pleasure Ridge Park High School Cheerleading All-Girl Stunt Team and in extending best wishes for continued academic and athletic victories. Done in Frankfort, Kentucky, this twenty-seventh day of March, in the year two thousand and two.

Legislative Citation No. 113 was adopted without objection.

Representative Graham moved the adoption of the following **Legislative Citation No. 112**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Scott Carter Jeffers and joins with Representative Gippy Graham in expressing deepest sympathy to the Jeffers and Carter Families and all those who share in the untimely loss of this cherished young citizen. A graduate of Franklin County High School and the University of Mississippi, where he was a member of Kappa Sigma Fraternity, he was preceded in death by his grandfathers, Harold Jeffers and Bernie Carter. He is survived by his parents, Don W. Jeffers and Susan Carter Jeffers; sister, Missy Jeffers; grandmothers, Mary Jane Jeffers and Jean Carter; step-mother, Marcie Jeffers; step-siblings, Shawnee Bennett and Chey Beatty; and a host of friends and loved ones; all of whom deeply mourn his passing. Scott Carter Jeffers is remembered on this day with sorrow and regret for the brevity of his days and with remembrance for the joy he brought to those who knew and loved him. Done in Frankfort, Kentucky, this twenty-seventh day of March, in the year two thousand and two.

Legislative Citation No. 112 was adopted without objection.

Representative Riggs moved the adoption of the following **Legislative Citation No. 120**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Kim Miracle for impressive contributions and exemplary performance as a legislative intern to Representative Steve Riggs during the Regular Session of the 2002 Kentucky General Assembly. Inasmuch as the Kentucky House of Representatives renders enormous tasks during the legislative session, and further, that this distinguished intern has indeed acted as an integral element of support; let it be known that this honorable body hereby commends the exceptional work ethic and dedication exhibited by Ms. Miracle, an accomplished student at Morehead State University and a native of Bell County, Kentucky, and extends its deepest appreciation and gratitude for her outstanding contributions to this most worthwhile and complex process. Done in Frankfort, Kentucky, this twenty-seventh day of March, in the year two thousand and two.

Legislative Citation No. 120 was adopted without objection.

Representative Denham moved the adoption of the following **HR 260**:

HR 260, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Anne Orem Parker.

With deepest respect and admiration, we pay homage and tribute to Anne Orem Parker, and we pause in silent reverence for her soul.

WHEREAS, Anne Orem Parker was born on July 18, 1929, a native of Baltimore, Maryland, and she traversed these earthly bounds on January 2, 2002; and

WHEREAS, Anne Orem Parker was the loving daughter of the late William Henry and Mae Gaeng Orem; she was the devoted wife of fifty-three years to Sanford Roff Parker, and she was the loving mother of three daughters, Sallie Parker Lotz of Cold Springs, Margaret "Peggy" Parker of May's Lick, and Ellen Parker of Palos Verdes Estates, California, and two loving sons, William Preston "Kip" Parker of Athens, Ohio, and James Orem Parker of Taylor Mill; and she was the proud grandmother of eleven grandchildren, Robert Parker Lotz, Daniel Preston Lotz, Charles Piper Lotz, Piper Clayre Smith, Clayton Parker Smith, Simon Parker Segal, Jack Sanford Segal, James Franklin Parker, Emily Pringle, David Roff Parker, and Mary Elizabeth Parker; and

WHEREAS, Anne Orem Parker was an esteemed member of the Maysville community where she was the owner and operator of Parker Travel Agency and Where in the World Gift Shop; she was a founding member and past president of the Maysville Players where she directed numerous plays and outdoor dramas, including the "History of May's Lick" in 1988, the "History of Maysville," enacted on a barge on the river in 1992, and "Simon Kenton, Our Mason County Leviathan" in Washington and at the Mason County Public Library amphitheater; and

WHEREAS, Anne Orem Parker was an active and involved citizen, and she was a member of the Humanities Council, the Maysville Tourism Commission, the Underground Railroad Museum, and the American Society of Travel Agents where she served on several national committees; she was past president of the Downtown Association of Maysville, and she had also served on the Hayswood Hospital Auxiliary Board; she was a volunteer for Mason Manor, and she had served the American Red Cross blood drive for the May's Lick School PTA; and

WHEREAS, Anne Orem Parker was a devout member of St. Rose of Lima Catholic Church where her funeral services were held on January 4, 2002, with Deacon Ernest Hillenmeyer and the Reverend C. Wayne Barnett officiating, and her burial was in the May's Lick Cemetery; and

WHEREAS, the passing of Anne Orem Parker has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Anne Orem Parker, and extends to her family and many friends its most heartfelt sympathy.

Section 2. The passion, dedication, intelligence, and social consciousness Anne Orem Parker brought to the Commonwealth of Kentucky will never be forgotten, and her influence will continue through all the lives she touched.

Section 3. When the House of Representatives adjourns this day, it does so in loving memory and honor of Anne Orem Parker.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. Sanford Roff Parker, Kirk Apartments, Maysville, Kentucky 41056.

There being no objection **HR 260** was adopted.

Representative Hoffman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Hoffman moved that he be recorded as voting "yea" on **HB 452**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative P. Clark moved that he be recorded as voting "yea" on **HB 194, HB 428, HB 452, SB 195, SB 55, SB 234, SB 222, SB 229, SB 38,** and **SJR 153**. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **SB 33**, by Representative J. Arnold:

SB 33, On page 5, from line 17 through page 8, line 24, delete Section 8 in its entirety and insert in lieu thereof the following:

"Section 8. KRS 13A.190 is amended to read as follows:

(1) An emergency administrative regulation is one that:

- (a) Must be placed into effect immediately in order to:
  - 1. Meet an imminent threat to public health, safety, or welfare;
  - 2. Prevent a loss of federal or state funds;
  - 3. Meet a deadline for the promulgation of an administrative regulation that is established by state law, or federal law or regulation; or
  - 4. Protect human health and the environment; and
- (b) 1. Is temporary in nature and will expire as provided in this section; or
  - 2. Is temporary in nature and will be replaced by an ordinary administrative regulation as provided in this section.

(2) Emergency administrative regulations shall become effective and shall be considered as adopted upon filing. Emergency administrative regulations shall be published in the next Administrative Register.

(3) (a) Except as provided by paragraph (b) of this subsection, emergency administrative regulations shall expire one hundred seventy (170) days after the date of publication or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.

(b) If an administrative body extends the[~~ public comment period as provided by KRS 13A.270(1), or extends the~~] time for filing a statement of consideration as provided by ***subsection (2)(b) of Section 14 of this Act***[~~KRS 13A.280(3)~~], an emergency administrative regulation shall remain in effect for one hundred seventy (170) days after the date of publication plus the number of days extended under the provisions of ***subsection (2)(b) of Section 14 of this Act***[~~KRS 13A.270(1) or 13A.280(3), as applicable~~].

(4) Unless required by federal law, an emergency administrative regulation shall not increase an existing fine, fee, levy, tax, or other charge.

(5) An emergency administrative regulation shall not be ***filed***[~~renewed~~] for a period of nine (9) months after it has been initially filed. No other emergency administrative regulation that is identical to or substantially the same as the previously filed emergency administrative regulation shall be promulgated.

(6)[~~(5)~~] When an emergency administrative regulation governing the same subject matter governed by an emergency administrative regulation filed within the previous nine (9) months is filed, it shall contain a detailed explanation of the manner in which it differs from the previously filed emergency administrative regulation. The detailed explanation shall be included in the statement of emergency.

(7)[~~(6)~~] Each emergency administrative regulation shall contain a statement of:

- (a) The nature of the emergency;
- (b) The reasons why an ordinary administrative regulation is not sufficient;
- (c) Whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation;
- (d) If the emergency administrative regulation will not be replaced by an ordinary administrative regulation, the reasons therefor; and
- (e) If applicable, the explanation required by subsection ***(6)***[~~(5)~~] of this section.

(8)[~~(7)~~] An administrative body shall attach the:

- (a) Statement of emergency required by subsection ***(7)***[~~(6)~~] of this section to the front of the original and each copy of a proposed emergency administrative regulation; and
- (b) Regulatory impact analysis, tiering statement, federal mandate comparison, fiscal note, summary of material incorporated by reference if applicable, and other forms or documents required by the provisions of this chapter to the back of the emergency administrative regulation.

(9)[~~(8)~~] ***(a)*** If an emergency administrative regulation will not be replaced by an ordinary administrative regulation, the administrative body shall schedule a public hearing ***and public comment period*** pursuant to KRS 13A.270(1). The public hearing ***and public comment period*** information required by KRS 13A.270(2) shall be attached to the back of the emergency administrative regulation.

(b) If an emergency administrative regulation will be replaced by an ordinary administrative regulation:

1. The ordinary administrative regulation shall be filed at the same time as the emergency administrative

regulation that will be replaced; and

2. A public hearing and public comment period shall not be required for the emergency administrative regulation.

(10)[~~(9)~~] The statement of emergency shall have a two (2) inch top margin. The number of the emergency administrative regulation shall be typed directly below the heading "Statement of Emergency." The number of the emergency administrative regulation shall be the same number as the ordinary administrative regulation followed by an "E."

(11)[~~(10)~~] Each executive department emergency administrative regulation shall be signed by the head of the administrative body and countersigned by the Governor prior to filing with the Commission. These signatures shall be on the statement of emergency attached to the front of the emergency administrative regulation.

(12)[~~(11)~~] (a) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the emergency administrative regulation shall expire on the date the ordinary administrative regulation is withdrawn.

(b) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.

(13)[~~(12)~~] (a) If an emergency administrative regulation, that was intended to be replaced by an ordinary administrative regulation, is withdrawn, the emergency administrative regulation shall expire on the date it is withdrawn.

(b) If an emergency administrative regulation has been withdrawn, the ordinary administrative regulation that was filed with it shall not expire unless the administrative body informs the regulations compiler that the ordinary administrative regulation is also withdrawn.

(c) If an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.

(14)[~~(13)~~] A subcommittee may review an emergency administrative regulation and may recommend to the Governor that the regulation be withdrawn.".

Floor Amendment No. 53 to Floor Amendment 21 to the Committee Substitute to **HB 768**, by Representative J. Arnold:

HB 768, On page 1, line 3, to page 111, line 13, by deleting all language and insert the following in lieu thereof:

"Section 1. It is proposed that Section 226 of the Constitution of Kentucky be amended to read as follows:

(1) The General Assembly may establish a Kentucky state lottery and may establish a state lottery to be conducted in cooperation with other states. Any lottery so established shall be operated by or on behalf of the Commonwealth of Kentucky.

(2) The General Assembly may by general law permit charitable lotteries and charitable gift enterprises and, if it does so, it shall:

(a) Define what constitutes a charity or charitable organization;

(b) Define the types of charitable lotteries and charitable gift enterprises which may be engaged in;

(c) Set standards for the conduct of charitable lotteries and charitable gift enterprises by charitable organizations;

(d) Provide for means of accounting for the amount of money raised by lotteries and gift enterprises and for assuring its expenditure only for charitable purposes;

(e) Provide suitable penalties for violation of statutes relating to charitable lotteries and charitable gift enterprises; and

(f) Pass whatever other general laws the General Assembly deems necessary to assure the proper functioning, honesty, and integrity of charitable lotteries and charitable gift enterprises, and the charitable purposes for which the funds are expended.

(3) *The General Assembly may by general law permit the operation of electronic gaming devices at racetracks and the operation of electronic gaming and other games of chance at up to seven (7) gaming facilities on the state's navigable rivers or on or adjacent to the river's banks, and, if it does so, shall:*

(a) Pass general laws to ensure the proper functioning, honesty, and integrity of electronic gaming at racetracks and the organizations conducting such gaming and the conduct of electronic gaming and other games of chance at up to seven (7) gaming facilities. The laws shall include a means of accounting for the amount of money received by the racetracks and gaming facilities through the conduct of electronic games and other games of chance and provide suitable penalties for violation of statutes relating to charitable lotteries and charitable gift enterprises;

(b) Include in the law provisions by which the voters in the county, urban-county, charter-county, or consolidated local government where the racetrack or the gaming facility is located or is to be located shall by local referendum approve the operation of electronic games at the racetrack and the operation of electronic games and other games of chance at the gaming facility at a regular election in accordance with general election laws; and

(c) Provide a means by which the city, county, urban-county, charter-county, or consolidated local government where the ractrack or facility is located can impose a tax on the gross receipts of the gaming facility or racetrack located in the city, county, urban-county, charter-county, or consolidated local government. The option shall include but not be limited to an occupational tax, a franchise tax, a user fee, or an income tax.

(4) Except as provided in this section, lotteries and gift enterprises are forbidden, and no privileges shall be granted for such purposes, and none shall be exercised, and no schemes for similar purposes shall be allowed. The General Assembly shall enforce this section by proper penalties. All lottery privileges or charters heretofore granted are revoked.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.".

Floor Amendment No. 1 to the Committee Substitute to **SB 257**, by Representative Draud:

SB 257, On page 11, line 26, after "***board***" by deleting "***shall***" and inserting "***may***" in lieu thereof.

Floor Amendment No. 1 to the Committee Substitute to **SB 193**, by Representative A. Arnold:

SB 193, On page 21, line 8, after the word "***county***"and before the words "***may be organized***"insert "***that includes property that will be used in an economic development project that will result in the creation of at least one hundred (100) new jobs***".

Floor Amendment No. 2 to the Committee Substitute to **SB 257**, by Representative Draud:

SB 257, On page 11, line 10, after "***10,***" by inserting "***and***" and deleting "***, and 13***"; and

On page 18, by deleting Section 13 in its entirety and by renumbering all subsequent sections accordingly; and

On page 23, by deleting Section 16 in its entirety and by renumbering all subsequent sections accordingly.

Floor Amendment No. 3 to the Committee Substitute to **SB 257**, by Representative Draud:

SB 257, On page 18, by deleting lines 17 to 21 in their entirety and inserting in lieu thereof:

"***(3) The commission shall render a decision on the application for site compatibility based on its consideration of community needs, industrial development, customer requirements, and the economics of the facility. The commission may condition the certificate upon implementation of any reasonable measures to mitigate any adverse impacts that will be caused by the facility. Nothing in this section shall be construed to limit the commission's authority granted pursuant to KRS 278.020 to issue or refuse to issue, either in whole or in part, a certificate of public convenience and necessity.*** ".

Floor Amendment No. 1 to the Committee Substitute to **SB 132**, by Representative J. Turner:

SB 132, On page 34, after line 10, by inserting:

"Section 9. Whereas many counties have experienced disastrous flooding that destroyed homes and businesses, closed or destroyed roads, disrupted families and work, and necessitated school closures for several days in addition to days already missed for closures due to snow, the commissioner of education, notwithstanding any other statute to the contrary or administrative regulation to the contrary, shall approve the request for all disaster days from a school district for those days missed above five (5) days as a result of flooding, snow, or a combination thereof during the 2002 spring semester.

Section 10. Whereas school districts must know how to adjust the school calendar for the remaining part of the school year, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.".

Floor Amendment No. 2 Title to the Committee Substitute to **SB 132**, by Representative J. Turner:

SB 132, Change title to read "AN ACT relating to schools."

Floor Amendment No. 4 to the Committee Substitute to **SB 257**, by Representative Riggs:

SB 257, On Page 8, line 24, by deleting "***in***"; and

On Page 8, line 25, before "***adjacent***", by deleting "***the***".

Floor Amendment No. 5 to the Committee Substitute to **SB 257**, by Representative Riggs:

SB 257, On Page 22, after line 27, by inserting the following new sections,

"Section 16. KRS 100.324 is amended to read as follows:

(1) All other provisions of this chapter to the contrary notwithstanding, public utilities operating under the jurisdiction of the Public Service Commission, except as specified in KRS 100.987[~~ and subsection (5) of this section~~], or the Department of Vehicle Regulation or Federal Power Commission, any municipally-owned electric system, and common carriers by rail shall not be required to receive the approval of the planning unit for the location or relocation of any of their service facilities. Service facilities include all facilities of such utilities and common carriers by rail other than office space, garage space, and warehouse space and include office space, garage space, and warehouse space when such space is incidental to a service facility. The Public Service Commission and the Department of Vehicle Regulation shall give notice to the planning commission of any planning unit of any hearing which affects locations or relocations of service facilities within that planning unit's jurisdiction.

(2) The nonservice facilities excluded in subsection (1) of this section must be in accordance with the zoning regulations.

(3) Upon the request of the planning commission, the public utilities referred to in this section shall provide the planning commission of the planning unit affected with information concerning service facilities which have been located on and relocated on private property.

(4) Any proposal for acquisition or disposition of land for public facilities, or changes in the character, location, or extent of structures or land for public facilities, excluding state and federal highways and public utilities and common carriers by rail mentioned in this section, shall be referred to the commission to be reviewed in light of its agreement with the comprehensive plan, and the commission shall, within sixty (60) days from the date of its receipt, review the project and advise the referring body whether the project is in accordance with the comprehensive plan. If it disapproves of the project, it shall state the reasons for disapproval in writing and make suggestions for changes which will, in its opinion, better accomplish the objectives of the comprehensive plan. No permit required for construction or occupancy of such public facilities shall be issued until the expiration of the sixty (60) day period or until the planning commission issues its report, whichever occurs first.

[~~(5) Every utility which proposes to construct an antenna tower for cellular telecommunications services or personal communications services within a county containing a city of the first class shall submit the proposal to the planning commission of the affected planning unit. The planning commission shall review the proposal in light of its agreement with the comprehensive plan and locally adopted zoning regulations and shall, within sixty (60) days from the date the proposal is submitted, make its final decision and advise the utility in writing whether the proposed construction is in accordance with the comprehensive plan and locally adopted zoning regulations. If the planning commission fails to issue a final decision within sixty (60) days, it is presumed to have approved the proposal, and may not later appeal a decision of the Public Service Commission under KRS 278.650(3). If the planning commission disapproves of the proposed construction, it shall state the reasons for disapproval in its written decision and may make suggestions which, in its opinion, better accomplish the objectives of the comprehensive plan and the locally adopted zoning regulations. No permit for construction of a cellular or personal communications services antenna tower, including any certificate of convenience and necessity required to be issued by the Kentucky Public Service Commission, shall be issued until the expiration of the sixty (60) day period or until the planning commission issues its final decision on the utility proposal, whichever occurs first.~~]

Section 17. KRS 100.985 is amended to read as follows:

In addition to the definitions set forth in KRS 100.111, the following definitions shall apply to KRS 100.985 to 100.987:

(1) "Cellular antenna tower" means a tower constructed for, or an existing facility that has been adapted for, the location of transmission or related equipment to be used in the provision of cellular telecommunications services or personal communications services;

(2) "Cellular telecommunications service" means a retail telecommunications service that uses radio signals transmitted through cell sites and mobile switching stations;

(3) "Co-location" means locating two (2) or more transmission antennas or related equipment on the same cellular antenna tower;

(4) "Personal communication service" has the meaning as defined in 47 U.S.C. sec. 332(c); ***and***

(5) "Uniform application" means an application[~~ for a certificate of convenience and necessity issued under KRS 278.020 submitted by a utility to the Public Service Commission~~] to construct ***a***[~~an antenna tower for~~] cellular ***antenna tower submitted to a planning commission in conformity with Sections 18 and 20 of this Act;***[~~telecommunications services of personal communications service in a jurisdiction, that has adopted planning and zoning regulations in accordance with this chapter, except for any county that contains a city of the first class; and~~]

(6) "Utility" has the meaning as defined in KRS 278.010(3)***; and***

(7) "Antennas or related equipment" means transmitting, receiving, or other equipment used to support cellular telecommunications service or personal communications service. This definition does not include towers.

Section 18. KRS 100.987 is amended to read as follows:

(1) A planning unit as defined in KRS 100.111 and legislative body or fiscal court that has adopted planning and zoning regulations[~~, except for a county that contains a city of the first class as provided under KRS 278.650,~~] may plan for and regulate the siting of cellular antenna towers in accordance with locally adopted planning or zoning regulations in this chapter[~~ by officially registering with the Public Service Commission. The registration shall be in the form of an official resolution adopted by the local planning commission. Nothing in this section shall require a planning unit and legislative body or fiscal court to plan for and regulate the siting of cellular antenna towers~~].

(2) Every utility or a company that is engaged in the business of providing the required infrastructure to a utility that proposes to construct an antenna tower for cellular telecommunications services or personal communications services within the jurisdiction of a planning unit that has adopted planning and zoning regulations in accordance with this chapter[~~, except for a county that contains a city of the first class as provided under KRS 278.650, and that has officially registered with the Public Service Commission~~] shall:

(a) Submit a copy of the ***applicant's***[~~utility's~~] completed uniform application to the planning commission of the affected planning unit to construct an antenna tower for cellular or personal telecommunications services[~~ within five (5) days of applying to the Public Service Commission for a certificate of necessity and convenience as required by KRS 278.020(1)~~]. The uniform application shall include a grid map that shows the location of all existing cellular antenna towers and that indicates the general position of proposed construction sites for new cellular antenna towers within an area that includes:

1. All of the planning unit's jurisdiction; and

2. A one-half (1/2) mile area outside of the boundaries of the planning unit's jurisdiction, if that area contains either existing or proposed construction sites for cellular antenna towers;

(b) Include in any contract with an owner of property upon which a cellular antenna tower is to be constructed, a provision that specifies, in the case of abandonment, a method that the utility will follow in dismantling and removing a cellular antenna tower including a timetable for removal; and

(c) Comply with any local ordinances concerning land use, subject to the limitations imposed by 47 U.S.C. sec. 332(c), KRS 278.030, 278.040, and 278.280.

(3) [~~Commencing from the time that a utility files a uniform application with the Public Service Commission, ~~]All information contained in the[~~ uniform~~] application and any updates, except for ***any map or other*** information that specifically identifies the proposed location of the cellular antenna tower then being reviewed[~~ by the applying utility~~], shall be deemed confidential and proprietary within the meaning of KRS 61.878. The[~~ Public Service Commission and the~~] local planning commission shall deny any public request for the inspection of this information, whether submitted under Kentucky's Open Records Act or otherwise, except when ordered to release the information by a court of competent jurisdiction. Any person violating this subsection shall be guilty of official misconduct in the second degree as provided under KRS 522.030.

(4) After ***an applicant's submission of***[~~receiving~~] the uniform application to construct a cellular antenna tower, the planning commission shall:

(a) Review the uniform application in light of its agreement with the comprehensive plan and locally adopted zoning regulations;

(b) Make its final decision to approve or disapprove the uniform application; and

(c) Advise the ***applicant***[~~utility and the Public Service Commission~~] in writing of its final decision within sixty (60) days commencing from the date that the uniform application is ***submitted to***[~~received by~~] the planning commission or within a date certain specified in a written agreement between the local planning commission and the ***applicant***[~~utility~~]. If the planning commission fails to issue a final decision within sixty (60) days and if there is no written agreement between the local planning commission and the ***applicant***[~~utility~~] to a specific date for the planning commission to issue a decision,[~~ it is presumed that the local planning commission has approved~~] the[~~ utility's~~] uniform application ***shall be deemed approved***.

(5)[~~ (a)~~] If the planning commission disapproves of the proposed construction, it shall state the reasons for disapproval in its written decision and may make suggestions which, in its opinion, better accomplish the objectives of the comprehensive plan and the locally adopted zoning regulations. No permit for construction of a cellular or personal communications services antenna tower[~~, including any certificate of convenience and necessity required to be issued by the Kentucky Public Service Commission,~~] shall be issued until the planning commission approves the uniform application or the sixty (60) day time period has expired, whichever occurs first.[~~ If a planning commission rejects the uniform application to construct an antenna tower, the Public Service Commission may override the decision of the planning commission and issue a certificate of convenience and necessity for construction of the cellular or personal communications services antenna tower, if it determines that there is no acceptable alternate site and that the public convenience and necessity requires the proposed construction.~~

~~(b) Any party, other than the applying utility, that is aggrieved by the final action of a planning commission under this section, may intervene in the action to the Public Service Commission, but this appeal shall not automatically~~

~~postpone action by the Public Service Commission.~~]

(6) The planning commission may require the ***applicant***[~~utility~~] to make a reasonable attempt to co-locate additional transmitting or related equipment[~~ on any new or existing towers, if there is available space on the tower and the co-location does not interfere with the structural integrity of the tower and does not require the owner of the tower to make substantial alterations to the tower~~]. A planning commission may provide the location of existing cellular antenna towers on which the commission deems the ***applicant***[~~applying utility~~] can successfully co-locate its transmitting and related equipment. If the local planning commission requires the ***applicant***[~~utility~~] to attempt co-location, the ***applicant***[~~utility~~] shall provide the local planning unit with a statement indicating that the ***applicant***[~~utility~~] has:

(a) Successfully attempted to co-locate on towers designed to host multiple wireless service providers' facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the ***applicant's***[~~utility's~~] facilities, and that identifies the location of the tower ***or suitable structure on*** which the ***applicant***[~~applying utility~~] will co-locate its transmission and related facilities[~~ on~~]; or

(b) Unsuccessfully attempted to co-locate on towers designed to host multiple wireless service provider's facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the ***applicant's***[~~utility's~~] facilities and that:

1. Identifies the location of the towers ***or other structures on*** which the ***applicant***[~~applying utility~~] attempted to co-locate[~~ on~~]; and
2. Lists the reasons why the co-location was unsuccessful in each instance.

(7) The local planning commission may deny a uniform application to construct a cellular antenna tower based on ***an applicant's***[~~a utility's~~] unwillingness to attempt to co-locate additional transmitting or related equipment on any new or existing towers ***or other structures***.

(8) In the event of co-location, a utility shall be considered the primary user of the tower, if the utility is the owner of the antenna tower and if no other agreement exists that prescribes an alternate arrangement between the parties for use of the tower. Any other entity that co-locates transmission or related facilities on a cellular antenna tower shall do so in a manner that does not impose additional costs or operating restrictions on the primary user.

(9) Upon the approval of an application for the construction of a cellular antenna tower by a planning commission, the utility making the application shall notify the Public Service Commission within ten (10) working days of the approval. The notice to the Public Service Commission shall include a map showing the location of the construction site. If a utility fails to file notice of an approved uniform application with the Public Service Commission, the utility shall be prohibited from beginning construction on the cellular antenna tower until such notice has been made.

(10) A party aggrieved by a final action of a planning commission under the provisions of KRS 100.985 to 100.987 may bring an action for review in any court of competent jurisdiction.

SECTION 19. A NEW SECTION OF KRS 100.985 TO 100.987 IS CREATED TO READ AS FOLLOWS:

In regulating the placement of cellular antenna towers, a planning commission shall not:

(1) Regulate the placement of a cellular antenna tower on the basis of the environmental effects of radio frequency emissions to the extent that these facilities comply with the regulations of the Federal Communications Commission concerning radio frequency emissions;

(2) Institute a moratorium upon the siting of cellular antenna towers;

(3) Charge an application fee that exceeds an amount that is reasonably related to expenses associated with processing an application to construct a cellular antenna tower, up to a maximum of five thousand dollars ($5,000) which may be adjusted annually based on the consumer price index;

(4) Regulate the placement of antennas or related equipment on an existing cellular tower structure; or

(5) Require the submission of application materials in addition to those required by Sections 18 and 20 of this Act.

SECTION 20. A NEW SECTION OF KRS CHAPTER 100.985 TO 100.987 IS CREATED TO READ AS FOLLOWS:

In addition to the requirements of Section 18 of this Act, a uniform application shall include:

(1) The full name and address of the applicant;

(2) The applicant's articles of incorporation, if applicable;

(3) A geotechnical investigation report, signed and sealed by a professional engineer registered in Kentucky, that includes boring logs and foundation design recommendations;

(4) A written report, prepared by a professional engineer or land surveyor, of findings as to the proximity of the proposed site to flood hazard areas;

(5) Clear directions from the county seat to the proposed site, including highway numbers and street names, if applicable, with the telephone number of the person who prepared the directions;

(6) The lease or sale agreement for the property on which the tower is proposed to be located, except that, if the agreement has been filed in abbreviated form with the county clerk, an applicant may file a copy of the agreement as recorded by

the county clerk and, if applicable, the portion of the agreement demonstrating compliance with KRS 100.987(2);

(7) The identity and qualifications of each person directly responsible for the design and construction of the proposed tower;

(8) A site development plan or survey, signed, and sealed by a professional engineer registered in Kentucky, that shows the proposed location of the tower and all easements and existing structures within five hundred (500) feet of the proposed site on the property on which the tower will be located, and all easements and existing structures within two hundred (200) feet of the access drive, including the intersection with the public street system;

(9) A vertical profile sketch of the tower, signed, and sealed by a professional engineer registered in Kentucky, indicating the height of the tower and the placement of all antennas;

(10) The tower and foundation design plans and a description of the standard according to which the tower was designed, signed, and sealed by a professional engineer registered in Kentucky;

(11) A map, drawn to a scale no less than one (1) inch equals two hundred (200) feet, that identifies every structure and every owner of real estate within five hundred (500) feet of the proposed tower;

(12) A statement that every person who, according to the records of the property valuation administrator, owns property within five hundred (500) feet of the proposed tower or property contiguous to the site upon which the tower is proposed to be constructed, has been:

(a) Notified by certified mail, return receipt requested, of the proposed construction which notice shall include a map of the location of the proposed construction;

(b) Given the telephone number and address of the local planning commission; and

(c) Informed of his or her right to participate in the planning commission's proceedings on the application;

(13) A list of the property owners who received the notice, together with copies of the certified letters sent to the listed property owners;

(14) A statement that the chief executive officers of the affected local governments and their legislative bodies have been notified, in writing, of the proposed construction;

(15) A copy of the notice sent to the chief executive officers of the affected local governments and their legislative bodies;

(16) A statement that:

(a) A written notice, of durable material at least two (2) feet by four (4) feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower on this site" and including the addresses and telephone numbers of the applicant and the planning commission, has been posted and shall remain in a visible location on the proposed site until final disposition of the application; and

(b) A written notice, at least two (2) feet by four (4) feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower near this site" and including the addresses and telephone numbers of the applicant and the planning commission, has been posted on the public road nearest the site;

(17) A statement that notice of the location of the proposed construction has been published in a newspaper of general circulation in the county in which the construction is proposed;

(18) A brief description of the character of the general area in which the tower is proposed to be constructed, which includes the existing land use for the specific property involved;

(19) A statement that the applicant has considered the likely effects of the installation on nearby land uses and values and has concluded that there is no more suitable location reasonably available from which adequate service to the area can be provided, and that there is no reasonably available opportunity to locate its antennas and related facilities on an existing structure, including documentation of attempts to locate its antennas and related facilities on an existing structure, if any, with supporting radio frequency analysis, where applicable, and a statement indicating that the applicant attempted to locate its antennas and related facilities on a tower designed to host multiple wireless service providers' facilities or on an existing structure, such as a telecommunications tower or other suitable structure capable of supporting the applicant's antennas and related facilities; and

(20) A map of the area in which the tower is proposed to be located, that is drawn to scale, and that clearly depicts the necessary search area within which an antenna tower should, pursuant to radio frequency requirements, be located.

Section 21. KRS 278.650 is amended to read as follows:

[~~(1) If a utility proposes construction of an antenna tower for cellular telecommunications services or personal communications services which is to be located within a county containing a city of the first class, then the utility shall submit the proposal to the planning commission of the affected planning unit prior to making application to the commission for a certificate of public convenience and necessity as required by KRS 278.020(1). The commission shall not grant a certificate of convenience and necessity in this situation until a final action on the proposal has been taken by the planning commission of the affected planning unit, or until the sixty (60) day time period set forth in KRS 100.324(5) has expired, whichever comes first.~~

~~(2) If a planning commission rejects a proposal to construct an antenna tower, the commission may override the decision of~~

~~the planning commission and issue a certificate of convenience and necessity for construction of the cellular or personal communications services antenna tower, if it determines that there is no acceptable alternate site, and that the public convenience and necessity requires the proposed construction.~~

~~(3) Any party aggrieved by the final action of the Public Service Commission under subsections (1) and (2) of this section shall appeal from the action to the Franklin Circuit Court. The appeal shall be filed within thirty (30) days after the final action by the Public Service Commission. All final actions of the Public Service Commission which have not been appealed within thirty (30) days shall not be subject to judicial review.~~

~~(4)~~] If ***an applicant***[~~a utility~~] proposes construction of an antenna tower for cellular telecommunications services or personal communications services which is to be located ***in an***[~~outside the~~] area ***outside the jurisdiction of a planning commission, the applicant shall apply to the Public Service Commission for a certificate of public convenience and necessity pursuant to KRS 278.020(1), Section 22 of this Act, and this section. In reviewing the application,***[~~ of a county containing a city of the first class, then~~] the commission may[~~ also~~] take into account[~~ in its deliberations~~] the character of the general area concerned, and the likely effects of the installation on nearby land uses and values.

Section 22. KRS 278.665 is amended to read as follows:

(1) The commission shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish the minimum content of ***an***[~~a uniform~~] application[~~, provided under KRS 100.985(5),~~] for a certificate of convenience and necessity to construct cellular antenna towers ***for areas outside the jurisdiction of a planning commission***[~~, and the procedures to carry out the commission's responsibilities under KRS 100.987~~].

(2) The commission, in establishing the public notice requirements of ***an***[~~a uniform~~] application as provided for in subsection (1) of this section, shall distinguish between areas of low and high population densities. At a minimum, when the site of the proposed cellular antenna tower is outside of an incorporated city[~~ or within a rural service area in an urban county~~], the commission shall require that every person who owns property contiguous to the property where the proposed cellular antenna tower will be located receives notice by certified mail, return receipt requested, of the proposed construction, given the commission docket number under which the application will be processed, and informed of the opportunity to intervene in the ***commission proceedings on the*** application.[~~ The provisions of this subsection shall not apply to unincorporated areas within a county containing a city of the first class.~~]"; and

On Page 23, after line 2, by inserting the following,

"278.660 Confidentiality of uniform application and updates -- Penalty for violation."; and

On Page 23, line 6, after "facilities," by inserting "and, whereas there is rapidly expanding growth in the cellular communications area and there is a serious need for increased local participation in this area,"; and

On Page 23, lines 1 and 3, by renumbering Sections 16 and 17 as Sections 23 and 24, respectively.

Floor Amendment No. 6 to the Committee Substitute to **SB 257**, by Representative Geveden:

SB 257, On page 1, line 6, after "***means***" by inserting "***, except for a qualifying cogeneration facility as defined in subsection (6) of this section,***"; and

On page 1, line 24, by deleting "***.***" and inserting "***; and***"; and

On page 1, between lines 24 and 25 by inserting the following:

"***(6) "Qualifying cogeneration facility" means a facility as defined in 16 U.S.C. sec. 796(18)(B), which does not exceed a capacity of one hundred fifty megawatts (150MW), that is located on site at a manufacturer's plant and that uses steam from the cogeneration facility in its manufacturing process.***"

Floor Amendment No. 1 to the Committee Substitute to **SB 271**, by Representative Geveden:

SB 271, On page 9, after line 24, by adding the following:

"Section 3. KRS 6.515 is amended to read as follows:

(1) Service credit in the Legislators' Retirement Plan shall be acquired only by service as a legislator after July 1, 1980, while a member of the plan, by transfer of credit as provided in KRS 6.505, or by purchase or transfer of credit as provided in this section.

(2) (a) 1. Any active member of the Legislators' Retirement Plan who has at least five (5) years of service credit in the Legislators' Retirement Plan, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system thirty-five percent (35%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the legislator in question under

KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators' Retirement Plan, to other service credit earned in the plan.

2. Any active member of the Legislators' Retirement Plan who has at least five (5) years of service credit in the Legislators' Retirement Plan may purchase and receive service credit for one (1) month of service for each six (6) months of service in the reserves or the National Guard by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on the assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the legislator in question under KRS 6.520. Service credit awarded as provided in this subsection shall be equivalent, for all purposes of the Legislators' Retirement Plan, to other service credit earned in the plan. The service in the military reserves or the National Guard shall be treated as service earned prior to participation in the plan. The purchase can be made by the member by transfer, if authorized under subsection (7)(d) of this section, or in a lump-sum payment or by installment payments, as set forth in paragraph (b) of this subsection. The payment shall not be picked up by the employer as provided in KRS 6.505(2).

(b) The beneficiary may purchase military service credit only at one (1) time by lump-sum payment for the amount of service he wishes to purchase, and the payment shall be made within thirty (30) days of the death of the active member. The member may purchase all of his military service credit at one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump-sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump-sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump-sum payment of the remaining principal amount, but no further installment payments shall be accepted thereafter. In this case, the member shall be credited with the military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.

(c) The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(2).

(d) No veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for a military pension in the future, unless the military pension is for service primarily on inactive duty in a reserve component of the Armed Forces, or is a disability pension which does not exceed five hundred dollars ($500) monthly.

(3) If spouses both serve in the General Assembly, but not simultaneously, they may combine their service credit in the Legislators' Retirement Plan for all purposes of that plan into a single account, and may jointly designate to whom the service retirement allowance shall be paid. The designation shall not be changed once it is made. Assuming equal service credit, the benefits paid, under this section, to a legislator and his or her spouse who also served as a legislator shall not exceed the benefits that the same legislator and his or her spouse would receive if the spouse had not served as a legislator.

(4) In the event of divorce, rights to benefits shall be considered marital property subject to the provisions of KRS 403.190.

(5) A former legislator whose spouse currently serves in the General Assembly and who received a refund of contributions under KRS 21.460 may repurchase service credit which he or she previously had by repaying the amount refunded with interest at six percent (6%) per annum, and the service credit shall become part of the single account authorized by subsection (3) of this section.

(6) A member who has qualified for benefits under KRS 6.525(1) may transfer to the Legislators' Retirement Plan up to ten (10) years of service credit which he has earned in a retirement system administered by Kentucky Retirement Systems. If the member elects to transfer his service credit, the system from which the transfer is made shall transfer to the legislators' retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to date of transfer at the actuarially assumed interest rate of the system from which the transfer is made in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies under KRS 6.520, when he pays the total difference between the amount of the funds transferred and the cost of the credit to the Legislators' Retirement Plan, as determined by the actuary for the Legislators' Retirement Plan. The member may pay by transfer, if authorized under subsection (7)(d) of this section, by lump sum, or by increments, as provided for in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(2).

(7) ~~[Any provision of law to the contrary notwithstanding, paragraphs (a), (b), (c), and (d) of this subsection shall apply only to applicable officials who are in office on June 21, 2001, and who are in active contributing status to the applicable retirement plan on June 21, 2001.]~~

(a) Any active member of the Legislators Retirement Plan who is vested in the Legislators Retirement Plan under KRS 6.525, shall receive service credit for a maximum of four (4) years each for his period of service as a Domestic Relations Commissioner, a Master Commissioner, or a District Court Trial Commissioner of the Commonwealth of Kentucky, or a combination thereof, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators Retirement Plan, to other service credit earned in the plan. The member may pay by transfer, by lump sum, or by increments as set forth in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(2).

(b) Any active member of the Legislators Retirement Plan who is vested in the Legislators Retirement Plan under KRS 6.525, shall receive service credit for his period of service to the United States Government, other than service in the Armed Forces, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators Retirement Plan, to other service credit earned in the plan. The member may pay by transfer, by lump sum, or by increments as set forth in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(2).

(c) Any member of the Legislators Retirement Plan, ***who is in office on June 21, 2001, and who is in active contributing status to the applicable retirement plan on June 21, 2001, and*** who has at least two hundred forty (240) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit that is not otherwise purchasable, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The member shall be entitled to the service credit at the rate at which he qualifies under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators Retirement Plan, to other service credit earned in the plan. The member may pay by transfer, by lump sum, or by increments as set forth in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(2).

(d) A member of the Legislators Retirement Plan may purchase service credit under the provisions of this section by transferring funds under the rules in 26 U.S.C. sec. 401(a)(31) directly from a retirement plan or a deferred compensation arrangement maintained by his employer that is a qualified plan under 26 U.S.C. sec. 401(a). Service credit may also be purchased by a rollover of funds from a qualified retirement plan under the rules specified in 26 U.S.C. sec. 402(c). The Legislators Retirement Fund shall accept the transfer or rollover to the extent permitted under the rules specified in 26 U.S.C. secs. 402(c) and 401(a)(31). The amount shall be credited to the individual member's contribution account and shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(2).".

Floor Amendment No. 1 to the Committee Substitute to **SB 280**, by Representative Barrows:

SB 280, On page 7, after line 15, by adding the following:

"Section 3. KRS 61.680 is amended to read as follows:

(1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852, and to all other provisions thereof. Thereafter, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4).

(2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and Teachers' Retirement System shall be consolidated for the purpose of determining eligibility and amount of benefits. Vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education and accepted by the Kentucky Employees Retirement System or the County Employees Retirement System, may be used to determine eligibility for twenty-seven (27) year retirement but not the amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one (1) system. If the member has prior service in more than one (1)

system, he shall obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate the prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits, each system shall pay the applicable percentage of total benefits.

(b) The provisions of paragraph (a) of this subsection shall be waived if the member notifies the system of his desire to maintain separate retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System, or County Employees Retirement System, or if he is a member of the State Police Retirement System or is working in a hazardous position under the Kentucky Employees Retirement System or County Employees Retirement System and as a result of an act in line of duty, becomes disabled or deceased.

(c) If the member has not contributed at least one (1) year in a system in which he has prior service, his current service in the system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.

(3) A member with service credit in the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System who becomes the holder of an office entitling him to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, but who does not elect within thirty (30) days after taking office in such service to participate in the plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System. In that event, the agency employing the member shall withhold employee contributions, or picked-up employee contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership. Any person entitled to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, who does not elect within thirty (30) days after taking office to participate in the plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the Teachers' Retirement System, shall participate in the Kentucky Employees Retirement System. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the system in which the employer of the nonelected position participates. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is not employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the Kentucky Employees Retirement System.

(4) (a) Prior to July 1, 1976, a person entering the service of an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System with service credit in the Teachers' Retirement System and who desires to retain membership in the Teachers' Retirement System, and who is permitted by that system to continue, shall be exempt from participating in the Kentucky Employees Retirement System or the County Employees Retirement System.

(b) Any person who has elected to retain membership in the Teachers' Retirement System as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, if he elects to cancel his option prior to January 1, 1977.

(c) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System and who does not elect within thirty (30) days after taking office to participate in the Legislators' Retirement Plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky Employees Retirement System unless an election to retain membership in the Teachers' Retirement System is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the Teachers' Retirement System for the same period of service under the Legislators' Retirement Plan or the Kentucky Employees Retirement System as a member of the General Assembly, but contributions made to the Teachers' Retirement System while a member of the General Assembly shall be transferred to the Legislators' Retirement Plan, as provided for in KRS 6.535, when the member elects to join the Legislators' Retirement Plan, and service credit in the Legislators' Retirement Plan shall be granted as provided for in KRS 6.505(3).

(5) Effective July 1, 1974, any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in a position covered by one (1) of these retirement systems and his employee contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up the employee contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership, as subsection (2) of this section eliminates the necessity of the transfers.

(6) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in more than one (1) position covered by the same retirement system, shall have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, an accumulation of all hours worked within the same retirement system shall be used to determine eligibility under KRS 61.510(21).

(7) Notwithstanding the provisions of subsection (2) of this section, a person who does not have the amount of service required for service retirement in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System, but who is a member of one

(1) of the systems or is a former member of one (1) or more of the systems with valid service credit therein, shall become eligible for service retirement benefits attributable to the amount of his actual service credit in each system in which he has service credit when his combined service credit in all the systems, plus any service credit he has in the Judicial Retirement Plan, is equal to that required for service retirement in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system. The final compensation shall be determined by using the creditable compensation reported to the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System and only as much of the compensation earned in the Judicial Retirement Plan as is needed to satisfy the final compensation requirement applicable in the respective retirement systems.

(8) Notwithstanding any provision to the contrary, any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or older, or at least sixty (60) months of service if under age sixty-five (65), shall have his or her service as professional staff with the Council on Postsecondary Education, if the individual participated in another retirement program, combined with Kentucky Retirement Systems service for purposes of qualifying for service purchases under KRS 61.552(26) and for insurance coverage under KRS 61.702. The Council on Postsecondary Education service shall not count otherwise as service in the Kentucky Retirement Systems and shall not be used to determine eligibility for twenty-seven (27) year retirement nor in the calculation of final compensation.".

Floor Amendment No. 7 to the Committee Substitute to **SB 257**, by Representative Smith:

SB 257, On page 1, line 6, after "***means***" by inserting "***, except for a qualifying cogeneration facility as defined in subsection (6) of this section,***"; and

between lines 24 and 25, by inserting a new subsection as follows;

"***(6) "Qualifying cogeneration facility" means a facility as defined in 16 U.S.C. sec. 796(18)(B) that is located on site at a manufacturer's plant and that uses steam from the cogeneration facility in its manufacturing process.***"

Floor Amendment No. 9 to the Committee Substitute to **SB 257**, by Representative Gooch:

SB 257, On page 10, line 11, after "***applicant***" by deleting "***has met***" and inserting in lieu thereof "***anticipates meeting***".

Floor Amendment No. 8 to the Committee Substitute to **SB 257**, by Representative Gooch:

SB 257, On page 11, line 2, after "***facility***" by inserting "***or has the ability to contract to achieve this capacity***"; and

On page 11, line 16, after "***approval***" by inserting "***or has the ability to contract to meet these obligations***".

Floor Amendment No. 3 Title to **SB 238**, by Representative Palumbo:

SB 238, On page 1, amend the title to read as follows:

"AN ACT relating to transportation.".

Floor Amendment No. 4 to the Committee Substitute to **SB 238**, by Representative Palumbo:

SB 238, On page 5, after line 3, insert the following new sections:

"Section 3. KRS 186A.520 is amended to read as follows:

(1) Except as provided in KRS 186A.555, a salvage title shall be obtained by the owner of a motor vehicle that meets the following definition of a salvage vehicle:

(a) A vehicle which has been wrecked, destroyed, or damaged, to the extent that the total estimated or actual cost of parts and labor to rebuild or reconstruct the vehicle to its preaccident condition and for legal operation on the roads or highways exceeds seventy-five percent (75%) of the retail value of the vehicle, as set forth in a current edition of the National Automobile Dealer's Association price guide.

(b) The value of repair parts for purposes of this definition shall be determined by using the current published retail cost of the parts equal in kind and quality to the parts to be replaced or the actual retail cost of the repair parts used in repair.

(c) The labor costs of repairs for purposes of this section shall be computed by using the hourly labor rate and time allocations which are reasonable and customary in the automobile repair industry in the community where the repairs are performed.

(2) The owner or an authorized agent of a motor vehicle that meets the definition of a salvage vehicle as set forth in subsection

(1) of this section shall, within fifteen (15) days from the loss or settlement of the loss, submit an application to the county clerk, on a form prescribed by the Department of Vehicle Regulation, for a salvage title, accompanied by a properly endorsed certificate of title and any lien satisfactions, if any appear, as may be required.

(3) The county clerk shall retain a copy of each salvage title application received and shall forward the original and its supporting documents to the Department of Vehicle Regulation in ***the same way applications are handled for speed titles***[~~a manner similar to that for handling of an application for a title~~].

(4) The Department of Vehicle Regulation shall process the salvage title application in ***the same way applications are processed for a speed title***[~~a manner similar to that used in processing a title application~~] and the salvage title shall be delivered in ***the same way as***[~~a like manner of~~] a ***speed*** title. Salvage titles shall be construed as proof of ownership of a vehicle in a state as to be unusable upon the highways of the Commonwealth. A vehicle shall not be issued a registration for highway use as long as a salvage title is in force.

(5) The only time a vehicle with a salvage title may be operated upon the highways of the Commonwealth is when it is in route to or from an inspection by the certified inspector prior to obtaining a certificate of title after having been rebuilt as per KRS 186.115.

Section 4. KRS 186A.130 is amended to read as follows:

There shall be paid for issuing and processing documents required by this chapter fees according to the following schedule:

(1) Each application for a certificate of title shall be six dollars ($6), of which the county clerk shall retain sixty-six and two-thirds percent (66-2/3%) and the Transportation Cabinet shall receive thirty-three and one-third percent (33-1/3%).

(2) Each application for a replacement or corrected certificate of title shall be four dollars ($4) of which, the county clerk shall retain three dollars ($3) and the Transportation Cabinet shall receive one dollar ($1). If a corrected certificate must be issued because of an error of the county clerk or the Department of Vehicle Regulation, there shall be no charge.

(3) Each application for a ***regular*** speed title shall be twenty-five dollars ($25), of which the county clerk shall retain five dollars ($5) and the Transportation Cabinet shall receive twenty dollars ($20). ***Each application for a salvage speed title shall be nine dollars ($9), which shall be divided between the county clerk and the Transportation Cabinet in the same manner as fees are divided under subsection (1) of this section.***".

Floor Amendment No. 54 to the Committee Substitute to **HB 768**, by Representative Bratcher:

HB 768, On page 59, between lines 23 and 24, by inserting the following:

"***1. a. For fiscal year 2002-2003 the first twenty-million dollars ($20,000,000) shall be appropriated and placed in a separate account within the Finance and Administration Cabinet to be used for relocation expenses of Jefferson County residents who were displaced as a result of the Jefferson County airport expansion. The Finance and Administration Cabinet in conjunction with the consolidated local government of Louisville and Jefferson County shall establish an application and approval process for the payment of lawful relocation expenses authorized by this subparagraph. The funds appropriated and distributed under this subparagraph shall not lapse but shall remain in the account established until distributed according to this subparagraph.***"

On page 59, line 24, by deleting "***1.***" and inserting "***b.***" in lieu thereof.

On page 59, line 24, after "***2002-2003***" by inserting "***,after appropriation and distribution of the funds pursuant to subparagraph 1.a. of this paragraph,***"

Floor Amendment No. 55 to Floor Amendment 21 to the Committee Substitute to **HB 768**, by Representative Bratcher:

HB 768, On page 33, between lines 24 and 25, by inserting the following:

"***1. a. For fiscal year 2002-2003, the first twenty-million dollars ($20,000,000) shall be appropriated and placed in a separate account within the Finance and Administration Cabinet to be used for relocation expenses of Jefferson County residents who were displaced as a result of the Jefferson County airport expansion. The Finance and Administration Cabinet in conjunction with the consolidated local government of Louisville and Jefferson County shall establish an application and approval process for the payment of lawful relocation expenses authorized by this subparagraph. The funds appropriated and distributed under this subparagraph shall not lapse but shall remain in the account established until distributed according to this subparagraph.***"

On page 33, line 25, by deleting "***1.***" and inserting "***b.***" in lieu thereof:

On page 33, line 25, after "***2002-2003***" by inserting "***,after appropriation and distribution of the funds pursuant to subparagraph 1.a. of this paragraph,***" Floor Amendment No. 56 to Floor Amendment 21 to the Committee Substitute to **HB 768**, by Representative J. Arnold:

HB 768, On page 1, line 3, to page 111, line 13, by deleting all language and insert the following in lieu thereof:

"Section 1. It is proposed that Section 226 of the Constitution of Kentucky be amended to read as follows:

(1) The General Assembly may establish a Kentucky state lottery and may establish a state lottery to be conducted in cooperation with other states. Any lottery so established shall be operated by or on behalf of the Commonwealth of Kentucky.

(2) The General Assembly may by general law permit charitable lotteries and charitable gift enterprises and, if it does so, it shall:

(a) Define what constitutes a charity or charitable organization;

(b) Define the types of charitable lotteries and charitable gift enterprises which may be engaged in;

(c) Set standards for the conduct of charitable lotteries and charitable gift enterprises by charitable organizations;

(d) Provide for means of accounting for the amount of money raised by lotteries and gift enterprises and for assuring its expenditure only for charitable purposes;

(e) Provide suitable penalties for violation of statutes relating to charitable lotteries and charitable gift enterprises; and

(f) Pass whatever other general laws the General Assembly deems necessary to assure the proper functioning, honesty, and integrity of charitable lotteries and charitable gift enterprises, and the charitable purposes for which the funds are expended.

(3) *The General Assembly may by general law permit the operation of electronic gaming devices at racetracks and the operation of electronic gaming and other games of chance at up to seven (7) gaming facilities on the state's navigable rivers or on or adjacent to the river's banks, and, if it does so, shall:*

(a) Pass general laws to ensure the proper functioning, honesty, and integrity of electronic gaming at racetracks and the organizations conducting such gaming and the conduct of electronic gaming and other games of chance at up to seven (7) gaming facilities. The laws shall include a means of accounting for the amount of money received by the racetracks and gaming facilities through the conduct of electronic games and other games of chance and provide suitable penalties for violation of statutes relating to such lotteries and gift enterprises;

(b) Include in the law provisions by which the voters in the county, urban-county, charter-county, or consolidated local government where the racetrack or the gaming facility is located or is to be located shall by local referendum approve the operation of electronic games at the racetrack and the operation of electronic games and other games of chance at the gaming facility at a regular election in accordance with general election laws; and

(c) Provide a means by which the city, county, urban-county, charter-county, or consolidated local government where the ractrack or facility is located can impose a tax on the gross receipts of the gaming facility or racetrack located in the city, county, urban-county, charter-county, or consolidated local government. The option shall include but not be limited to an occupational tax, a franchise tax, a user fee, or an income tax.

(4) Except as provided in this section, lotteries and gift enterprises are forbidden, and no privileges shall be granted for such purposes, and none shall be exercised, and no schemes for similar purposes shall be allowed. The General Assembly shall enforce this section by proper penalties. All lottery privileges or charters heretofore granted are revoked.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.".

Floor Amendment No. 3 to Floor the Committee Substitute to **HB 819**, by Representative Stumbo:

HB 819, On page 4, between lines 17 and 18 insert the following:

"*(3) The Kentucky presription drug fund for seniors and Medicare beneficiaries shall be principally funded with presription drug fund fee moneys provided in accordance with the definitions and provisions of subsections (4) to (10) of this section.*

(4) As used in this section, the following definitions shall apply:

  (a) "Prescription drug fund fee" means a fee paid on a beverage cup or container as defined in this subsection;

  (b) "Beverage" means any of the following products or mixture of the following products if the products are in liquid, ready-to-drink form, and intended for human consumption:

    1. Beer or other malt beverages;

    2. Carbonated and noncarbonated soft drinks;

    3. Carbonated or noncarbonated water;

    4. Wine and distilled spirits;

    5. Fruit or vegetable juices and drinks, except as provided in paragraph (c)4. of this subsection;

    6. Sport drinks; and

7. Coffee and tea drinks.

(c) The term "beverage" does not include the following products:

1. Infant formulas, cereals, and juices;

2. Milk or milk products, soy, rice, or similar milk substitutes;

3. Medical food intended to manage a disease or health condition and requiring a prescription;

4. Fruit and vegetable juice drinks in containers that are twenty-five (25) ounces or more in volume, or in containers that are greater than four (4) ounces and less than twenty-five (25) ounces that are packaged in units of three (3) or more containers; and

5. Nutritional products, vitamin-fortified and specifically designed to gain, reduce, or maintain weight and to aid in the consumption of a healthy diet;

(d) "Beverage cup" means:

1. An individual disposable cup used by the fast food retail establishment industry to dispense beverages; or

2. An individual disposable cup used by retailers which provide them to customers on a routine basis for the purpose of consumption of beverages purchased from the retailer off the premises of the retailer;

(e) "Container" means an individual bottle, can, jar, or other receptacle, not to include beverage cups or refillable cups as defined in this section, with a capacity of four (4) fluid ounces up to one (1) gallon, that contains a beverage, and which is constructed of metal, glass, plastic, paper, or any combination of these materials;

(f) "Distributor" means any person who engages in the sale of containers and who is the first person to sell the containers in this Commonwealth, including a manufacturer if the manufacturer engages in these sales and a person who imports containers from outside this Commonwealth;

(g) "Refillable container" means any container that:

1. Is capable of being refilled multiple times; and

2. Is distributed by a distributor that operates or has arranged for the operation of a facility and system that processes and refills all returned refillable containers sold by that distributor in the Commonwealth;

(h) "Fast food retailer" means a facility with a drive-through window through which food and beverages are sold; and

(i) "Retailer" means a business which is liable for the sales tax imposed by KRS 139.200.

(5) Beginning with the effective date of this Act, distributors shall pay to the Revenue Cabinet on a monthly basis one-half of one cent ($0.005) for each container sold in Kentucky as a presription drug fund fee.

(6) Beginning on the effective date of this Act, fast food retail establishments shall pay to the Revenue Cabinet on a monthly basis one-half of one cent ($0.005) for each beverage cup sold or provided in Kentucky, as an presription drug fund fee.

(7) Beginning on the effective date of this Act, retailers, other than fast food retailers, which provide disposable beverage cups to customers on a routine basis for the intended purpose of consumption of beverages purchased from the retailer off the premises of the retailer shall pay to the Revenue Cabinet on a monthly basis one-half of one cent ($0.005) for each such beverage cup sold or provided in Kentucky, as a presription drug fund fee.

(8) If a distributor, fast food retailer, or retailer fails to make a payment and file a return required by this section on or before the due date established by the Revenue Cabinet, the Revenue Cabinet may assess a penalty of ten percent (10%) of the amount due, plus an additional penalty of five percent (5%) of the amount due for each additional month payment is late, and interest at the rate provided for in KRS 131.183. All assessment and collection powers conveyed to the Revenue Cabinet for the assessment and collection of taxes shall apply to the assessment and collection of the presription drug fund fees Any assessment issued pursuant to this section shall be subject to the protest and appeal requirements provided for in KRS Chapter 131.

(9) All payments, interest, and penalties collected by the Revenue Cabinet under this section shall be transferred monthly into the Kentucky prescription drug fund for seniors and medicare beneficiaries established in subsecxtion (3) of this section. All assessment and collection powers conveyed to the Revenue Cabinet for the assessment and collection of taxes shall apply to the assessment and collection of the presription drug fund fees. The Revenue Cabinet shall be reimbursed from the Kentucky pride fund for its costs incurred in assessing and collecting the fees, with the reimbursement not to exceed fifty thousand dollars ($50,000) per year.

(10) The Revenue Cabinet shall prescribe by administrative regulation, requirements for registration and remittance of the presription drug fund fees, including the manner in which the fees shall be paid and reported, the information required on the reports, and the dates for filing.".

Floor Amendment No. 2 to the Committee Substitute to **SB 193**, by Representative Wilkey:

SB 193, On page 7, line 9, after "perform", bracket and strike through "an";

On page 7, line 9, after "actuarial", insert "***studies***" and bracket and strike through "study";

On page 9, between lines 18 and 19, insert the following:

"***(5) The office may transfer funds from the petroleum storage tank account to the small operator assistance account as needed to satisfy the obligations, future liabilities, and expenses necessary to operate that account. The office may transfer funds to the financial responsibility account as needed to maintain within that account sufficient funds to demonstrate financial responsibility and to ensure payment of claims as provided in subsection (2)(c) of this section.***";

On page 11, lines 22 and 23, delete entirely;

On page 11, line 25, insert "***information on***" before "***the current***";

On page 14, line 24, after "***mailing.***" insert "***The review period shall be tolled pending submittal of information responding to the deficiency, but not to exceed thirty (30) days.***";

On page 14, line 25, after the comma, insert "***or at the end of the thirty (30) day period,*** ";

On page 14, line 26, after "***period***" insert "***. Nothing in this section shall be construed as preventing the fund from making partial reimbursement as appropriate.***";

On page 14, lines 26 and 27, delete "***, but not to exceed forty-five (45) days.***";

On page 20, line 2, after "(5)", insert the following: "***Within thirty (30) days of the close of fiscal year 2001-2002 and each fiscal year thereafter, the state budget director shall review the balance of each account to determine if a surplus exists. "Surplus" means funds in excess of the amounts necessary to satisfy the obligations in each account for all eligible facilities, to satisfy future liabilities and expenses necessary to operate each account, and to maintain an appropriate reserve in the financial responsibility account to demonstrate financial responsibility and compensate for third-party claims. The state budget director shall report the determination to the Interim Joint Committee on Appropriations and Revenue. After a determination that a surplus exists, the surplus shall be transferred to a restricted account and retained until appropriated by the General Assembly***";

On page 20, line 2, place an opening bracket around and strike through "The office";

On page 20, lines 2 to 7, after "office" delete all new language; and

On page 20, line 7, remove the opening bracket.

Floor Amendment No. 10 to the Substitute to **SB 257**, by Representative Wayne:

SB 257, On page 8, line 24, by inserting a "***;***" after "***facility***" and by deleting "***for property owners in***"; and

On page 8, by deleting line 25.

Floor Amendment No. 11 to the Committee Substitute to **SB 257**, by Representative Wayne:

SB 257,

On page 4, line 18, after "***may***" by deleting "***, for good cause shown,***"; and

On page 4, line 19, after "***section***" by inserting "***on a finding that the proposed facility is designed and located to be compatible with adjoining land uses at a distance closer than those provided in subsection (2) of this section, or where, in the case of residential structures, written waivers have been provided waiving the setback distances contained in subsection (2) of this section***"; and

On page 4, line 20, after "***located***" by deleting "***adjacent to a***" and inserting in lieu thereof "***on a site of a former coal processing plant where the electric generating facility will utilize on-site waste coal as a fuel source, then the one thousand (1,000) foot property boundary requirement in subsection (2) of this section shall not be applicable; however, the applicant shall be required to meet any other setback requirements contained in subsection (2) of this section.***"; and

On page 4, by deleting lines 21 to 24 in their entirety; and

On page 5, line 20, after "***ordinances.***" by inserting "***The applicant shall also attach a copy of the hearing transcript, tape recording, minutes or other document reflecting approval by the legislative body or board of compliance and compatibility with local zoning and planning requirement.***"; and

On page 5, line 23, by deleting "***located adjacent to a river or***"; and

On page 6, by deleting lines 4 to 6 in their entirety and inserting in lieu thereof "***on a site of a former coal processing plant where the electric generating facility will utilize on-site waste coal as a fuel source, a statement that the proposed site is compatible with the setback requirements provided in subsection (2) of Section 3 of this Act, as modified by subsection (5) of Section 3 of this***"; and

On page 7, line 1, after "***regulations***" by inserting "***relating to public or workplace health, safety, or the environment***"; and

On page 7, line 3, after "***exceeding***" by deleting "***one***" and inserting "***five***"; and

On page 7, line 4, by deleting "***($1,000)***" and inserting "***($5,000)***"; and

On page 10, line 16, after "***located***" by deleting "***adjacent to a***" and insert in lieu thereof "***on a site of a former coal processing plant where the electric generating facility will utilize on-site waste coal as a fuel source,***"; and

On page 10, line 17 by deleting "***river,***"; and

On page 10, line 24, by deleting "***adjacent to a river and the facility will use clean coal***" and inserting in lieu thereof "***on a site of a former coal processing plant where the electric generating facility will utilize on-site waste coal as a fuel source***"; and

On page 10, line 25, by deleting "***technology as defined in 42 U.S.C. sec. 7651***"; and

On page 11, line 2, by deleting "***and***"; and

On page 11, line 5, by deleting "***.***" and inserting "***;***" in lieu thereof; and

On page 11, between lines 5 and 6 by inserting the following:

"***(k) Whether the applicant possesses an environmental compliance history that demonstrates a likelihood that the facility will be operated in compliance with applicable environmental and siting requirements.***"

On page 11, line 14, by deleting "***has a good environmental compliance history***" and inserting in lieu thereof "***possesses an environmental and workplace compliance history that demonstrates a likelihood that the facility will be operated in compliance with applicable environmental and siting requirements***"; and

On page 14, line 20 by deleting "***ninety (90)***" and inserting "***one hundred twenty (120)***" in lieu thereof and after "***or***" by deleting "***one hundred twenty (120)***" and inserting "***one hundred eighty (180)***" in lieu thereof; and

On page 14, line 23, after "***route***" by inserting "***, design and configuration***"; and

On page 15, line 3, after "***line***" by inserting "***or changes in design or configuration of the line***".

Floor Amendment No. 1 to **SB 126**, by Representative Bowling:

SB 126, On page 1, lines 21 to 24, by deleting all the text; and

On page 2, by deleting all of line 1; and

On page 1, after line 20, by inserting the following:

"Section 2. KRS 151.720 is amended to read as follows:

The Kentucky River Authority is authorized and empowered to:

(1) Construct, reconstruct, provide for the major maintenance, or repair the locks and dams on the Kentucky River and all real and personal property pertaining thereto, as well as maintain the channel;

(2) Acquire by purchase, exercise of the rights of eminent domain, grant, gift, devise, or otherwise, the fee simple title to or any acceptable lesser interest in any real or personal property and by lease or other conveyance, contract for the right to use and occupy any real or personal property selected in the discretion of the authority as constituting necessary, desirable, or acceptable sites to fulfill its statutory authority and power;

(3) Lease its real or personal property to other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons as the authority deems necessary to carry out the purposes of this section;

(4) Sell or otherwise dispose of its real or personal property in accordance with KRS 56.463 and 45A.045;

(5) Collect water use fees from all facilities using water from the Kentucky River basin, except those facilities using water primarily for agricultural purposes ***and any municipally owned facility which withdraws water from a privately owned lake or reservoir which is not dependent on the Kentucky River main stem for recharge***. Facilities charged such a fee may pass on all or any part of the fee;

(6) Issue revenue bonds in accordance with KRS 151.730;

(7) Employ persons to carry out the authority's responsibilities with revenue from the water use fees, including an executive director who shall serve at the pleasure of the authority;

(8) Contract for services with other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons to perform its duties;

(9) Promulgate administrative regulations providing for clean water, which shall not be less stringent than the state and federal regulations for clean water;

(10) Exercise all other powers necessary to perform its public purpose to implement and enforce the plans developed by the

authority pursuant to this section and KRS 151.727 and 151.728, and to enforce administrative regulations promulgated by the authority. The long-range water resource plan and drought response plan shall be implemented for the basin upon the direction of the authority;

(11) Develop comprehensive plans for the management of the Kentucky River within the basin, including a long-range water resource plan and a drought response plan. Each county within the basin shall develop a long-range water resource plan and submit it to the authority. The authority, after consultation with the Natural Resources and Environmental Protection Cabinet, shall develop a unified long-range water resource plan for the basin. The unified long-range water resource plan shall be implemented over short-range and long-range time periods. The short-range plan shall be for a period of six (6) years and the long-range plan shall be for a period of twenty (20) years. The authority shall conduct a public hearing on the plan prior to its adoption and amend the plan as appropriate based on the comments received. The Natural Resources and Environmental Protection Cabinet shall review the draft unified plan and provide comment during the public comment period concerning the consistency of the plan with the state requirements under KRS Chapters 224 and 151. A drought response plan for the basin shall be developed by the authority and shall be coordinated with the Natural Resources and Environmental Protection Cabinet to assure consistency with KRS Chapters 224 and 151, and this plan shall be implemented for the basin upon the direction of the authority;

(12) Develop and promote a plan for the protection and use of groundwater within the basin. Administrative regulations may be promulgated implementing the plan, and these regulations shall not be less stringent than state and federal regulations protecting groundwater;

(13) Develop recreational areas within the basin. These recreational areas may be operated and funded by the state Department of Parks, Kentucky State Nature Preserves Commission, or other governmental entity as specifically authorized or permitted within the biennial executive budget. There is hereby created the Kentucky River Park to be located as determined by the authority;

(14) Utilize funds provided for recreational purposes within the biennial executive budget for major or minor maintenance if the authority certifies to the secretary of the Finance and Administration Cabinet that a significant need exists for the repairs and no other funds are available for the maintenance;

(15) Coordinate the Kentucky River basin water resources activities among state agencies;

(16) Report quarterly on all of its activities to the legislative Committee on Appropriations and Revenue;

(17) Receive reports from state agencies on litigation concerning the Kentucky River, which agencies are hereby directed to report to the authority;

(18) Credit to the authority any income derived from the interest earned on the investment of the water use fees collected, which shall be available for the authority's expenditure; and

(19) Accomplish the watershed management mission of the authority, which is to fulfill the provisions of this section for the Kentucky River basin, the boundary of which shall be defined by a hydrologic map promulgated in an administrative regulation.

SECTION 3. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that in 1992, in recognition and furtherance of the leadership role of the Kentucky River Authority regarding the waters of the Kentucky River basin, the Natural Resources and Environmental Protection Cabinet was directed to issue water-related permits only if the permits were consistent with the long-range water resource plan and drought response plan developed by the authority. The General Assembly determines that it is now necessary to extend the leadership of the authority into deliberations on water supply services provided by public utilities. To accomplish this goal, the General Assembly declares that orders by the commission relating to the rules, regulations, practices, equipment, appliances, facilities, or service, or to the method of manufacture, distribution, transmission, storage, or supply employed by any water utility subject to its jurisdiction and providing services, in whole or in part, within the Kentucky River basin shall be consistent with the administrative regulations promulgated by the Kentucky River Authority, and the long-range water resource plan and drought response plan developed by the authority. The commission shall request the authority to submit the authority's finding of consistency on any matter before the commission related to a water utility subject to its jurisdiction and providing service, in whole or in part, within the Kentucky River basin and shall not issue an order on the matter unless the authority has submitted a finding of consistency or given notice to the commission that the authority waives its right of review.

Section 4. Whereas a large volume of the payments received for fines or taxes made by credit or debit card occur prior to the normal effective date of legislation and transaction fees are required to be included in the payment, an emergency is declared to exist, and Section 1 of this Act takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Section 5. To grant sufficient time to the authority to prepare a budget based on the directive provided by Section 2 of this Act, Section 2 of this Act takes effect November 15, 2003. The Kentucky River Authority shall review the current water use fees implemented under KRS 151.723 to determine if the fees may be discounted or eliminated based upon such factors as rate of water usage, convenience to the payor, administrative efficiency, or other factors deemed relevant by the authority. The authority shall report its findings and make recommendations to the Legislative Research Commission by November 15, 2003.

Floor Amendment No. 2 Title to **SB 126**, by Representative Bowling:

SB 126, Amend title to read: "AN ACT relating to government function."

Floor Amendment No. 12 to the Committee Substitute to **SB 257**, by Representative Wayne:

SB 257, On page 17, between lines 3 and 4 by inserting the following:

"*(5) All new merchant electric generating facility sources, whether designated as a minor or major source for emissions of precursors of ozone, shall meet "best available control technology" (BACT) requirements for oxides of nitrogen and shall submit dispersion modeling demonstrating that the proposed emissions will not interfere with attainment and maintenance of air quality standards.*"; and

On page 17, line 4, by deleting "*(5)*" and inserting "*(6)*" in lieu thereof.

Floor Amendment No. 13 to the Committee Substitute to **SB 257**, by Representative Wayne:

SB 257, On page 7, line 16 after "*facility*" by inserting "*, unless the replacement, repair, modification, retrofitting, enhancement or reconfiguration results in a measurable increase in environmental impacts, in which case siting approval shall be required prior to undertaking that activity. Whenever activity such as that described in this section is proposed, the facility shall submit notice to the Natural Resources and Environmental Protection Cabinet, which shall make the determination of whether the proposed activity results in such a measurable net increase*".

Floor Amendment No. 1 to **SB 180**, by Representative Childers:

SB 180, On page 2, after line 7, by inserting:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) It is the intent of the General Assembly to establish a scholarship program to provide eligible Kentucky students the opportunity to attend an accredited school of veterinary medicine under contract with the Commonwealth and become certified veterinarians rendering service in underserved areas in the Commonwealth. For purposes of this section "underserved area" means a county or counties with ten (10) or fewer veterinarians per one hundred thousand (100,000) people or a deficiency of a specific category of veterinary practice like food animal, equine, or small animal determined by the species and number of animals in the county.

(2) The Kentucky Higher Education Assistance Authority may award scholarships, to the extent funds are available for that purpose, to persons who declare an intent to become veterinarians and practice in an underserved area in the Commonwealth and who are eligible under subsection (3) of this section.

(3) The authority may award scholarships to students who meet the following criteria:

(a) Kentucky residents who are United States citizens as determined by the Council on Postsecondary Education for the purposes of admission and tuition assessment;

(b) Students who are enrolled or accepted for enrollment in an eligible program of study accredited by the American Veterinary Medical Association's Council on Education, on a full-time basis, or eligible students who have a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability;

(c) Students who have completed their preceptorship in a food animal practice, or in a mixed practice where at least thirty percent (30%) of the practice is large animal;

(d) Students who agree to render one (1) year of qualified service in an underserved area of the Commonwealth for each year the scholarship was awarded. To qualify for the scholarship, at least thirty percent (30%) of the gross income of the recipient must come from practice with food animals. "Qualified service" means a full-time practice in the Commonwealth of Kentucky as a licensed doctor of veterinary science for a majority of the calendar year except that an individual having a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., whose disability, certified by another licensed physician, prevents him or her from practicing full-time, shall be deemed to perform qualified service by practicing the maximum time permitted by the attending physician; and

(e) Students who sign a promissory note as evidence of the scholarship awarded and the obligation to repay the scholarship amount or render medical service as agreed in lieu of payment.

(4) The amount of the scholarship awarded to an eligible student by the authority shall be determined by the Kentucky Higher Education Assistance Authority.

(5) The authority shall require a promissory note to be executed by the student as evidence of the obligation. The recipient shall render one (1) year of qualified service for each year the scholarship was awarded. Upon completion of each year

of qualified service, the authority shall cancel the appropriate number of promissory notes. Promissory notes shall be canceled by qualified service in the order in which the promissory notes were executed. Service credit shall not include residency service. In the event a recipient fails to complete an eligible program of study, or fails to render qualified veterinary service as agreed in subsection (3) of this section, the recipient shall be liable for the total repayment of the amount of the scholarship awarded.

(6) A scholarship shall not be awarded or a promissory note cancellation shall not be granted to any person who is in default on any obligation to the authority under any program administered by the authority under KRS 164.740 to 164.785 until financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.

(7) A repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of executing the promissory note.

(8) Failure to meet repayment obligations imposed by this section shall be cause for the revocation of the scholarship recipient's license to practice medicine, subject to the procedures set forth in KRS Chapter 311.

(9) Notwithstanding KRS 164.753(3), the authority shall establish by administrative regulation procedures for the administration of this program, including the execution of appropriate contracts and promissory notes, cancellation of the obligation, repayment of outstanding debt, and the priority of awarding scholarships if funds are insufficient to honor all requests.

(10) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a promissory note under this section shall be twelve percent (12%) per annum, except that if a judgment is rendered to recover payment, the judgment shall bear interest at the rate of five percent (5%) greater than the rate actually charged on the promissory note.

(11) (a) The "Veterinary Medicine Scholarship Program fund" is hereby created as a special trust fund in the State Treasury administered by the Kentucky Higher Education Assistance Authority for the purpose of providing funds for scholarships to eligible students studying veterinary medicine in schools under contract with the Commonwealth.

(b) The trust fund may receive state appropriations, gifts, and grants from public and private sources, and federal funds. Any unallotted or unencumbered balances in the trust fund shall be invested as provided in KRS 42.500(9). Income earned from the investments shall be credited to the trust fund. Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year and continuously appropriated only for the purposes specified in this section. A general statement that all continuing appropriations are repealed, discontinued, or suspended shall not operate to repeal, discontinue, or suspend this fund or to repeal this section.

Section 3. Scholarships under Section 2 of this Act may be awarded beginning with the 2003-2004 academic year.".

Motions, Petitions, and Communications (Continued)

The following member filed a request to have his name added as co-sponsor of a Bill:

HB 737, Representative Hoffman

Announcements

The following meetings were announced:

Free Conference Committee Meeting on **HB 507** and **HB 658**: Thursday, March 28, 2002, 8:30 a.m.

Local Government: Thursday, March 28, 2002, 9:00 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m. on Thursday, March 28, 2002.

The motion that the House adjourn until 2:00 p.m., Thursday, March 28, 2002, was adopted by voice vote.